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**In the  
Supreme Court of the United States.**

OCTOBER TERM, 1991.

QUILL CORPORATION,  
PETITIONER,

v.

NORTH DAKOTA DEPARTMENT OF REVENUE,  
RESPONDENT.

ON WRIT OF CERTIORARI FROM THE SUPREME COURT,  
STATE OF NORTH DAKOTA.

**BRIEF OF AMICUS CURIAE  
DIRECT MARKETING ASSOCIATION IN  
SUPPORT OF APPELLANT QUILL CORPORATION**

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### Statement of Interest of Direct Marketing Association.

The Direct Marketing Association ("DMA") files this brief in support of the position of Petitioner, Quill Corporation ("Quill").<sup>1</sup>

Direct Marketing Association, a not-for-profit corporation, is the largest and oldest national trade association in the United States representing companies involved in direct-to-the-consumer mail advertising and marketing. DMA's membership totals more than 3,200 firms located in all 50 states and 40 foreign countries. A majority of the Association's members are mail order houses, from Fortune "500" companies to "mom and pop" operations that continue to prepare their catalogs on kitchen table tops. Approximately twenty percent of DMA's members employ fewer than four employees, and eighty-five percent of its members have sales of under ten million dollars.

Most of DMA's members sell exclusively by means of interstate commerce — sending catalogs and other advertising materials by U.S. Mail, receiving orders for goods by mail or by telephone, and delivering goods to customers by interstate common carriers. Under these circumstances, DMA and its members have a special interest in the constitutional standard adopted by this Court for determining when out-of-state retailers must collect sales and use taxes.

DMA's members have relied on a long line of U.S. Supreme Court cases, including *National Bellas Hess, Inc. v. Illinois Revenue Dep't.*, 386 U.S. 753 (1967), in which this Court has held that states may not impose use tax collection duties on out-of-state retailers unless those companies have a physical nexus with the taxing state. If the North Dakota Supreme Court's "reversal" of *Bellas Hess* were upheld, enormous and confusingly discrepant administrative burdens would be created for mail order marketers in collecting and remitting use taxes on behalf of over 6,100 taxing jurisdictions throughout

<sup>1</sup> Written consent of both parties to the filing by DMA as an *amicus* is on file with the office of the Clerk of the Court.

the country. The compliance burdens would be staggering. Moreover, DMA's members would be exposed to liability for billions of dollars of back taxes — a blow which would threaten the very survival of most mail order companies.

This Court's abandonment of the *Bellas Hess* standard would have an immediate, adverse impact on DMA's members. If a change in that standard is warranted, then Congress, rather than the courts, should effect that change after taking into consideration the interests of both interstate marketers and the states. As pointed out in *National Bellas Hess*, 386 U.S. at 760, "this is a domain where Congress alone has the power of regulation and control." Congress can fashion uniform rules in this area of tax administration to balance the states' interests against the needs of a national market place, while also providing sufficient safeguards to the mail order industry.

#### Summary of Argument.

The decision of the North Dakota Supreme Court is contrary to more than 24 years of established United States Supreme Court precedent dealing with use tax collection responsibilities of out-of-state mail order companies. The North Dakota Supreme Court's disregard for the substantial burdens imposed on interstate mail order companies by that court's new "economic nexus" standard is simply an extension of the same approach contained in the underlying use tax statute enacted by the North Dakota legislature. Unlike bills recently proposed in Congress, which attempted to balance state and industry interests by standardizing tax rates within states, simplifying collection and reporting arrangements, and establishing specified sales volume thresholds, the North Dakota statute casts its net widely and indiscriminately. By broad legislative fiat, all out-of-state retailers (who mail at least three catalogs into the state per year) must comply with every detail of North Dakota's sales and use tax regulations.

In reality, however, this case is not only about the taxing authority of the State of North Dakota or about the business

operations of one large mail order company. Much to the contrary, the new nexus standard announced by the North Dakota Supreme Court, if accepted by this Court, would enable over 6,100 state and local sales tax jurisdictions to compel all mail order companies, including the many small and unsophisticated companies which make up the bulk of the mail order industry, to act as their collection agents.

The North Dakota Supreme Court makes unsubstantiated claims about the changed circumstances, both technological and economic, surrounding the mail order industry. In contrast, the record developed at Congressional hearings, as well as before the Congressionally authorized Advisory Commission on Intergovernmental Relations ("ACIR"), demonstrates the enormous administrative burden on the mail order industry, and in particular on small companies, which would occur if out-of-state retailers were required to collect use taxes on behalf of states and localities throughout the United States. Certainly, the record in this case does not present this Court with a comprehensive view of the impact of a reversal of the *Bellas Hess* doctrine.

Congress' repeated consideration but failure to enact legislation which would have replaced the *Bellas Hess* standard evidences its continued acceptance of the *Bellas Hess* rule. Under such circumstances, the remedy, if any, is for Congressional, and not judicial, action.

Further, North Dakota and the state *amici* do not seek from this Court a carefully crafted decision that would establish a defined, but limited, set of circumstances and conditions under which the states could expand their tax jurisdiction beyond current constitutional restraints. In fact, the tools available to courts are not well-suited to making these delicate adjustments. Such policy considerations are more appropriately addressed by Congress, which is well-equipped not only to investigate the facts relating to the use tax collection controversy, but also to develop a statutory scheme which balances the interests of the states and the industry.

Only Congress can establish a *de minimis* exemption for small companies with sales below a specified threshold. Cer-



tainly, such an exemption would protect small companies which lack the resources and personnel to shoulder the heavy burdens associated with multi-jurisdiction use tax collection. Only Congress can establish uniform tax rates, uniform product exemptions, uniform filing requirements and simplified audit procedures to reduce the enormous burden and expense of use tax collection on all mail order vendors. Only Congress can establish a transition period to permit sufficient time for publication of catalog notices and to facilitate the implementation of administrative systems to collect state use taxes. In short, Congress alone can choose among several alternatives to mitigate the burdens and improve the efficiencies of use tax collection. These options are simply not available to the courts.

The Commerce Clause was intended to replace a parochial state-by-state approach to the regulation of commerce with a national view of the needs of interstate commerce and the interests of those who rely on such commerce. There can be no doubt that the North Dakota legislature, in enacting its mail order use tax statute, was concerned with only one objective — increasing state revenues in hard economic times. This Court should continue to invalidate state fiscal initiatives that evidence no concern for the attendant adverse impact on interstate commerce.

Finally, what is at stake in this lawsuit extends beyond the future obligations of mail order companies to collect state use taxes. An additional and ominous consequence of the reversal of *Bellas Hess* — unless limited by this Court to purely prospective application — would be back-tax assessments against mail order companies for literally billions of dollars. The reliance of mail order companies on 24 years of settled Supreme Court precedent, coupled with the principle of *stare decisis*, militate against judicial abandonment of the *Bellas Hess* doctrine. If a new rule is to be established, Congress should enact it.

## Argument.

### I. CONGRESS RATHER THAN THE COURTS SHOULD DECIDE WHETHER TO ABANDON THE *BELLAS HESS* STANDARD.

The North Dakota Supreme Court refused to apply *Bellas Hess* on the ground that its physical presence test fails to reflect economic and technological changes that have occurred since 1967 and because it rests on obsolete legal precedent. As discussed in Section II, *infra*, neither ground is persuasive. Moreover, it is Congress, and not the courts, that can balance, by carefully crafted legislation, the competing policy considerations presented by some states' desires to impose tax collection and other regulatory burdens on interstate marketers.

#### A. Congress Is The Appropriate Body To Make Changes To The *Bellas Hess* Standard.

Congress, by legislation, can authorize the states to adopt legislation that would, in the absence of the Congressional authorization, violate the Commerce Clause. *Western & Southern Life Insurance Co. v. Bd. of Equalization*, 451 U.S. 648, 652-53 (1980). Since, in a long line of decisions defining the nexus standard, this Court has already drawn the balance between "the competing demands of state and national interests," it is up to Congress, and not the courts, "to redefine the distribution of power over interstate commerce." *Southern Pacific Co. v. Arizona*, 325 U.S. 761, 769 (1945). This Court should defer to Congress to make any changes in the *Bellas Hess* standard, if such changes are needed, for several reasons.

First, Congress can compile a more complete factual record on which to base sensitive economic policy decisions. Professors Hellerstein and Hartman<sup>2</sup> have noted that it is Congress rather than the courts that should promulgate any new standards in the area of multistate taxation:

<sup>2</sup> The North Dakota Supreme Court relied heavily on the writings of Professor Hartman. (470 N.W.2d at 209, 214, 215, 217, 218.)

As Professor Paul J. Hartman has argued persuasively in his writing, the institutional nature of a judicial tribunal and the constitutional inability of the Supreme Court under the commerce clause to do more than restrain undue state tax burdens on interstate commerce make the Court inherently incapable of dealing adequately with the complex problems posed by state and local taxation of multistate enterprises. Congress, on the other hand, with its committees, staffs, and public hearings, can examine problems and develop solutions that it has the power to implement by legislation. [J. Hellerstein, *State Taxation Under the Commerce Clause: An Historical Perspective*, 29 Vand. L.Rev. 335, 339 (1976)<sup>1</sup> (footnotes omitted).]

Second, the task of setting a new standard, after weighing the demands of states<sup>4</sup> against the interests of the mail order industry, is better suited to Congress than to the courts. For these reasons, Professor Hartman advocates only a legislative overruling of *Bellas Hess*. P. Hartman, *Collection of Use Tax on Out-of-State Mail-Order Sales*, 39 Vand. L. Rev. 993, 1028 (1986). He stated the rationale as follows:

In the absence of congressional action, compliance cost burdens associated with sales tax collections in multiple jurisdictions would be particularly burdensome for the smaller out-of-state seller, which presumably would find it necessary to be familiar with the tax laws in all the state and local taxing jurisdictions where it makes sales. In view of the multiplicity of

<sup>1</sup>See also A. Cox, *The Role of Congress in Constitutional Determinations*, 40 Cinn. L. Rev. 199, 209 (1971) ("[T]he legislature is, or at least can be, a better fact-finding body than an appellate court. . . . Courts have always found it hard to develop the background facts in constitutional cases. Judicial notice often means only intuition or prejudice.").

<sup>4</sup>Certainly, some states believe they will be harmed *Bellas Hess* is overturned. See amicus brief of New Hampshire, et al.

use tax rules in different state and local governments, the mail-order seller would be saddled with high compliance cost burdens if it is required to comply with the differing tax code provisions for forty-five states, the District of Columbia, and between 6,400 and 7,000 local governments that now impose such taxes. In addition to rate differentials, exempt items and taxed buyers vary a great deal from state to state. This administrative burden could conceivably stifle some interstate sales. [*Id.* at 1015-16 (footnote omitted).]

The ACIR<sup>5</sup> recently considered the question of whether existing constitutional restrictions on the states' power to impose use tax collection duties on mail order companies should be eliminated or altered. Advisory Commission on Intergovernmental Relations, *State and Local Taxation of Out-of-State Mail Order Sales* (April, 1986) ("ACIR 1986 Study"). In examining the effect of the *Bellas Hess* standard on both state tax revenues and the operations of interstate mail order companies, the ACIR emphasized that this subject involved the difficult question of whether it was "possible to shield interstate commerce from undue state tax burdens without causing serious tax losses for state governments?" (*ACIR 1986 Study* at 1.)

The ACIR 1986 Study, in fact, rejected litigation as a method to modify or overturn the existing nexus standard for several reasons, including the fact that litigation "addresses the problems in a piecemeal fashion . . . ; the litigation process has no possibility of addressing the political-administrative problems involved in taxing mail-order sales, such as compliance costs or the multiplicity of state-local tax rates." (*ACIR 1986 Study* at 13.) Because a full range of issues would need to be addressed before revising the *Bellas Hess* standard, ACIR strongly recommended a Congressional solution rather than a judicial standard (*ACIR 1986 Study* at 14, 18):

<sup>5</sup>The ACIR is a Congressionally established agency whose mandate is to represent the interests of state and local governments, and the public, in monitoring and recommending improvements to the operation of the federal system.



In sharp contrast to a judicial solution of the problem, Congressional action could weigh a broader business presence standard against legitimate business concerns about compliance costs and protection for small firms. Business interest in a *de minimis* rule, uniform state-local rates, and amnesty for prior taxes could be addressed in legislation. All of the economic issues — tax revenues, competition, and compliance costs — could be resolved through appropriate legislation.

\* \* \*

In the judgment of the majority of the Commission, only carefully crafted Congressional action can both negate the *National Bellas Hess* decision and achieve a delicate but essential balance.

Certainly, the setting of a new standard is a more appropriate activity for Congress than for the courts. As stated in *Moorman Mfg. Co. v. Bair*, 437 U.S. 267, 280 (1978):

It is clear that the legislative power granted to Congress by the Commerce Clause of the Constitution would amply justify the enactment of legislation requiring all States to adhere to uniform rules for the division of income. It is to that body, and not this Court, that the Constitution has committed such policy decisions.

Third, the Court has established fifty years of precedent on which the industry has relied. As Justice O'Connor stated in her dissenting opinion in *American Trucking Association, Inc. v. Scheiner*, 483 U.S. 266, 301 (1987), in view of the reliance interests of the industry, "if a new rule is to be declared, Congress should do it." *Id.* at 301. See also *Capitol Greyhound Lines v. Brice*, 339 U.S. 542, 547 (1950).

Fourth, the doctrine of *stare decisis* counsels in favor of this Court deferring to Congress and not overturning the *Bellas Hess* standard. In this case, an entire industry has justifiably

relied on the standard set forth in a long line of U.S. Supreme Court cases, reinforced by Congressional refusal to alter that standard. As Chief Justice Rehnquist stated, "[C]onsiderations in favor of *stare decisis* are at their acme in cases . . . where reliance interests are involved." *Payne v. Tennessee*, U.S. , 111 S.Ct. 2597, 2610 (1991).<sup>6</sup> If ever there were a case where settled expectations should prevent this Court from disturbing its established precedent, this is it.<sup>7</sup> Not only has the mail order industry relied on this Court's settled precedents, it has also relied on Congress' refusal to change that standard.

#### *B. Congress Has Repeatedly Considered Whether To Change The Bellas Hess Standard And Has Decided Against It.*

Bills have been repeatedly introduced in Congress to empower states, under certain limited conditions, to require mail order sellers to collect state use taxes.<sup>8</sup> These bills were de-

<sup>6</sup>The Court has found it appropriate to overrule prior changes where "correction through legislative action is impossible." *Payne v. Tennessee*, U.S. , 111 S.Ct. at 2609 (1991). Here, however, Congress has the opportunity to revoke, adjust or expand the *Bellas Hess* standard. There is no Congressional impotence on this issue under the Commerce Clause.

<sup>7</sup>See also *American Trucking Associations, Inc. v. Smith*, U.S. , 110 S.Ct. 2323, 2345 (1990) (Scalia, J. concurring) ("Although I will not apply negative Commerce Clause decisional theories to new matters coming before us, *stare decisis* — that is to say, a respect for the needs of the legal system — would normally cause me to adhere to a decision of this Court already rendered as to the unconstitutionality of a particular type of state law.")

<sup>8</sup>See, e.g., S. 2368 and S. 2913, 100th Cong., 2nd Sess. (1988); H.R. 1242 H.R. 1891 and H.R. 3521, 100th Cong., 1st Sess. (1987); S. 639 and S. 1099, 100th Cong., 1st Sess. (1987); H.R. 3549, 99th Cong., 2d Sess. (1986); S. 1510 and S. 2913, 99th Cong., 2d Sess. (1986). In addition, extensive evidence on the subject of use tax collection was presented to the various Congressional subcommittees. See, *Interstate Sales Tax Collection Act of 1987 and the Equity in Interstate Competition Act of 1987: Hearings on H.R. 1242, H.R. 1891, and H.R. 3521 Before the Subcomm. on Monopolies and Commercial Law of the House Comm. on the Judiciary*, 100th Cong., 2d Sess. (1988) ("1988 House Hearings"); *Collection of State Sales and Use Taxes by Out-of-State Vendors: Hearing on S. 639 and S. 1099 Before the Subcomm. on Taxation and Debt Management of the Senate Comm. on Finance*, 100th Cong., 1st Sess. (1987) ("1987 Senate Hearings"); *Interstate Sales Tax Collection Act of 1987: Hearing on H.R. 1242 Before the Subcomm. on Select Revenue Measures*

signed to overturn the *Bellas Hess* line of cases by employing Congress' authority to legislate under the Commerce Clause.<sup>9</sup> Each bill involved complex policy issues which were carefully reviewed and debated in Congressional committees. Each bill provided some of the protections to the mail order industry which ACIR had recommended in its study.<sup>10</sup>

Legislation was not passed, however, because Congress concluded that the safeguards proposed for the industry were not sufficient. For example, after the bills were introduced, the states and municipalities voiced opposition to a uniform tax rate within each state, and instead lobbied, in effect, that mail order companies be held responsible for collection at the tax rate for each separate jurisdiction that has a sales and use tax.<sup>11</sup> After careful consideration of the consequences, Congress declined to disturb the established nexus standard, but, instead, relied on existing Supreme Court precedent as setting forth

*of the House Comm. on Ways and Means, 100th Cong., 1st Sess. (1987) ("1987 House Hearings"); State Taxation of Interstate Commerce: Hearing on S. 1510 Before the Subcomm. on Taxation and Debt Management of the Senate Comm. on Finance, 99th Cong., 1st Sess. (1985) ("1985 Senate Hearings").*

<sup>9</sup>See, e.g., 132 Cong. Rec. S 15691 October 8, 1986. ("[T]he commerce clause of the Constitution . . . reserves to the Congress the power to regulate and control interstate commerce. . . . Congress should exercise that power in favor of the States" by overturning *National Bellas Hess*.) (Remarks of Senator Long upon introduction of S. 2913, 99th Cong., 2d Sess. (1986).)

<sup>10</sup>In its 1986 study, ACIR recommended federal legislation that would include a *de minimis* exemption so that a company with annual nationwide sales of less than \$12.5 million would not be required to collect the sales and use tax of any state so long as it had no physical presence in the state. The ACIR-recommended legislation also provided for a single tax rate within each state, thereby reducing the number of tax rates to 46. The proposal also contained an amnesty provision to protect companies from indeterminate liabilities for back taxes. (ACIR 1986 Study at 16-18.)

<sup>11</sup>Indeed, Congressman Brooks, the sponsor of bills, H.R. 1891 and 3521, that contained many of the ACIR-recommended features, and the Chairman of the Subcommittee considering legislation, noted that the proposal of the state and local governments was unacceptable, because the proposal required companies to collect "taxes in every county and city and each State . . . and it is impractical to expect even the computerized mail order houses to figure out the tax and the volume in every county and every city in the State of Texas, much less every city in the nation." (See 1988 House Hearings at 389.)

the proper balance.<sup>12</sup> Undoubtedly, Congress will be asked to revisit this issue again in the future.

*C. Because Congress Has Paramount Authority Under The Commerce Clause, This Court Should Be Reluctant To Act In the Face of Congressional Inaction.*

This Court has traditionally been wary to allow potential barriers to trade where Congress has not acted. In holding the Illinois use tax statute unconstitutional, this Court stated in *National Bellas Hess, supra*, 386 U.S. at 760, the following:

The very purpose of the Commerce Clause was to ensure a national economy free from such unjustifiable local entanglements. Under the Constitution, this is a domain where Congress alone has the power of regulation and control. [Footnote omitted.]

The North Dakota statute exemplifies the type of parochial legislation that would place undue burdens on interstate commerce, a result the Commerce Clause is intended to prevent. As Mr. Justice Holmes stated:

I do not think the United States would come to an end if we lost our power to declare an Act of Congress void. I do think that the Union would be imperiled if we could not make that declaration as to the laws of the several States. *For one in my place sees how often a local policy prevails with those who are not trained to national views and how often action is taken that embodies what the Commerce Clause was meant to end.* [Holmes, "Law and the Court" in *Collected Legal Papers* 291, 295-96 (1920) (emphasis added).]

<sup>12</sup>It should be noted that during the Congressional hearings industry members supported legislation which would authorize collection of use taxes but reduce the administrative burden to mail order companies of doing the same. See 1988 House Hearings at 210-211. (Testimony of L.L. Bean Executive Vice President William End suggesting a uniform tax, uniform list of exemptions and uniform reporting and audit procedures, or in the alternative, a sales tax levied by the state in which the retailer is located as opposed to where the goods are sent.) The states have rejected these proposals.



This Court has consistently interpreted the Commerce Clause "to ensure that States do not disrupt or burden interstate commerce when Congress' power remains unexercised: it protects the free flow of commerce, and thereby safeguards Congress' latent power from encroachment by the several States." *Merion v. Jicarilla Apache Tribe*, 455 U.S. 130, 154 (1982). Thus, the Commerce Clause reflects "a central concern of the Framers that was an immediate reason for calling the Constitutional Convention: the conviction that in order to succeed, the new Union would have to avoid the tendencies toward economic Balkanization that had plagued relations among the Colonies and later among the States under the Articles of Confederation." *Hughes v. Oklahoma*, 441 U.S. 322, 325-26 (1979) (quoted with approval in *Wardair Canada, Inc. v. Florida Dept. of Revenue*, 477 U.S. 577 (1986)).<sup>13</sup>

In *Bellas Hess*, the Court applied these principles and confirmed the nexus standard. The Court made it clear that if the standard is to change, it should be for Congress, not the states, to make that change. 386 U.S. at 760.

Congress' failure to make such changes, despite its frequent consideration of legislation to do so, indicates its continued acceptance of the *Bellas Hess* standard. This Court should be reluctant to change a standard which Congress analyzed closely during hearings and then decided not to modify. Such judicial restraint is particularly appropriate in view of Congress' paramount power under the Commerce Clause. As this Court has stated, "[w]hen, therefore, Congress has posited a regime of state regulation on the continuing validity of specific prior decisions . . . , we should be loathe to change them." *State Bd. of Insurance v. Todd Shipyards Corp.*, 370 U.S. 451, 457 (1962).

Even when this Court has questioned the wisdom of its precedent, it has, nonetheless, deferred to Congress and con-

<sup>13</sup> See, e.g., the writings of Hamilton and Madison advocating free trade and the need for national, as opposed to state, control of commerce. *The Federalist Papers*, Number 7 at 62-63, Number 11 at 89, Number 22 at 144-145, Number 42 at 267 (C. Rossiter ed. 1961).

tinued its acceptance of existing doctrine. For example, in *Flood v. Kuhn*, 407 U.S. 258 (1972), the Court considered whether to overrule *Federal Baseball Club v. National League*, 259 U.S. 200 (1922) and *Toolson v. New York Yankees, Inc.*, 346 U.S. 356 (1953), and make baseball subject to the antitrust laws. Although the Court noted that its decision in *Federal Baseball* was "an anomaly" and "an aberration", the Court refused to reverse the decisions. Justice Blackmun, writing for the majority, stated the grounds for the decision as follows:

The Court has emphasized that since 1922 baseball, with full and continuing Congressional awareness, has been allowed to develop and to expand unhindered by federal legislative action. Remedial legislation has been introduced repeatedly in Congress but none has ever been enacted. The Court, accordingly, has concluded that Congress as yet has had no intention to subject baseball's reserve system to the reach of the antitrust statutes. This, obviously, has been deemed to be something other than mere Congressional silence and passivity.

\* \* \*

We continue to be loath, 50 years after *Federal Baseball* and almost two decades after *Toolson*, to overturn those cases judicially when Congress, by its positive inaction, has allowed those decisions to stand for so long and, far beyond mere inference and implication, has clearly evinced a desire not to disapprove them legislatively.

\* \* \*

The remedy, if any is indicated, is for congressional, and not judicial, action. [*Id.* at 283-285 (emphasis added).]

Similarly, Congress has actively considered legislation to reverse the *Bellas Hess* standard. Thus far, it has not enacted legislation, preferring by its "positive inaction" to leave the standard intact. If the states are dissatisfied with *Bellas Hess*, then their alternative is to seek a remedy by "congressional, and not judicial, action." *Id.* at 285.

II. IN THE ABSENCE OF FEDERAL LEGISLATION, THIS COURT SHOULD ADHERE TO THE PHYSICAL PRESENCE STANDARD, WHICH PROTECTS INTERSTATE MARKETERS FROM BURDENSOME STATE TAX COLLECTION OBLIGATIONS.

A. *The Mail Order Industry Is Comprised Largely Of Small Companies That Have Neither The Resources Nor The Sales Volumes To Permit Them To Undertake The Enormous Burdens And Expense Of Use Tax Collection.*

The North Dakota Supreme Court based its opinion, in part, on its perception, unsupported by the record, that the mail order industry is a "goliath", which employs "revolutionary communications abilities and marketing methods which were undreamed of in 1967." (470 N.W.2d at 208.) In seeking to define a new constitutional standard and replace the existing nexus principle, the court pointed to Quill's "extensive computer expertise" as reducing any burden of use tax collection.<sup>14</sup> (*Id.* at 215, n.10.) As discussed below, the North Dakota court is flatly wrong in its depiction of the mail order industry.

1. Today, As In 1967, Most Mail Order Companies Are Relatively Small, And Their Ability To Access National Markets Will Be Seriously Impaired By A Reversal Of The *Bellas Hess* Standard.

In its study, the ACIR concluded that the mail order industry consists primarily of small companies. (*ACIR 1986 Study* at

<sup>14</sup>Quill is a large, business-to-business direct marketer of office supplies. Its business operations are not necessarily typical of the several thousand mail order companies in the United States, most of whom sell directly to consumers, are much smaller than Quill, and lack Quill's level of computerization.

35.) For example, firms with annual sales of less than \$250,000 accounted for 56% of the number of mail order companies, while companies with annual sales of less than \$5 million accounted for 96% of all mail order companies. (*Id.* at Table 2-4.)

The term "goliath" could not be less appropriate in describing the typical mail order company. In 1987, for example, the average number of employees per mail order company was 17. Bureau of the Census, U.S. Dep't. of Commerce, 1987 *Census of Retail Trade*, Geographic Area Series at 17 (1989). Approximately one-third of all mail order companies are sole proprietorships or partnerships. (*Id.* at 12.)

Since its conception in the late 19th century, mail order marketing has attracted start-up companies and local retailers who have seen opportunities for expansion into a national market. Catalog companies have been able to sell to a national market, even though most of them have limited resources, few employees and often are located in rural areas remote from urban centers.<sup>15</sup> Today, contrary to the observations of the North Dakota Court (470 N.W.2d at 209), many small mail order companies continue to sell by traditional marketing methods, and do not use "800" telephone numbers, WATS lines, telefax ordering or direct computer communications.

The Commerce Clause, and the national marketplace it has fostered, enable entrepreneurs to access a national marketplace that has no interior borders or barriers to trade. It is the unitary character of this marketplace that allows even the smallest of retailers with a good product or novel idea to reach a "consumer market" stretching between two oceans.<sup>16</sup> If small companies

<sup>15</sup>For example, Leon Leonwood Bean began the Maine-based mail order company L.L. Bean, Inc. by sending a circular to holders of Maine hunting licenses who resided outside of Maine and offering them a novel product — the rubber-top Hunting Shoe — which outdoorsmen could not get elsewhere. 1987 House Hearings at 154 (Testimony of William T. End.)

<sup>16</sup>The effectiveness of this unitary market can be contrasted to the relative inaccessibility of foreign markets to U.S. mail order companies. For example, although Canada is geographically close and, by population, is a potential market equal to 11% of the U.S. marketplace, it accounts for less than .8% of the



had to confront the prospect, from their first day in business, of filing tax returns on a monthly basis in hundreds of tax jurisdictions, as well as incurring the other burdens of use tax compliance discussed below, they would undoubtedly be deterred from starting (or expanding) their businesses. Indeed, many of the companies already in the mail order business would be forced to discontinue operations.

2. Imposition Of Use Tax Collection Duties On Out-Of-State Mail Order Companies Would Impose A Disproportionate Burden On Them In Comparison To In-State Retailers, And The Expense Would Be Even Greater Today Than In 1967.

The North Dakota Supreme Court gave short shrift to the administrative burdens and expenses mail order companies would encounter in collecting state use taxes. In fact, the administrative burdens and expense which catalog companies would face today are more substantial than those of twenty-four years ago.

There are currently 45 states (plus the District of Columbia) and over 6,100 local governments that impose sales and use taxes. The number of sales and use tax jurisdictions changes

sales of U.S. mail order companies. *Revised Monthly Retail Sales and Inventories*, January 1981 through December 1990, U.S. Depart. of Commerce, Bureau of Census at 4, and *Maclean's* "Ordering Over The Border," p.36 (9/16/91). The postal system is not the barrier, as mail moves easily between the two countries. Moreover, customs duties have been largely eliminated pursuant to the U.S. Canada Free Trade Agreement. The Canadian national GST (a value added tax) and provincial sales and use taxes, however, present a bewildering and difficult compliance barrier to American mail order companies and to their Canadian customers.

It is noteworthy that harmonization of the sales tax laws of the member countries of the European Common Market is an important ingredient of the transformation of Europe into a single market. See *New York Times*, "Europeans Reach Accord on Sales Tax", p. D10 (June 25, 1991). It would be anomalous if North Dakota and other states were able to impose barriers to interstate commerce and thus contribute to Balkanizing our national economy at a time when the European countries, based in large part on the example of the United States, are attempting to remove the obstacles to trade stemming from divergent tax systems.

significantly from year to year.<sup>17</sup> The rates vary considerably among the states and localities, and change regularly and frequently, sometimes with only a short notice.<sup>18</sup>

In almost all instances, sales and use taxes are imposed on the person who purchases or otherwise uses a purchased product in the taxing state. Although the use tax is a direct liability on the retailer's customers, and not on the retailer itself, each jurisdiction places the obligation to collect the sales or use tax on the retailer at the time of sale. Moreover, all state statutes and local ordinances provide that if the retailer does not collect the tax from its customers, then the retailer will be held liable for the tax. In other words, the imposition of direct tax liability is a penalty imposed on the retailer for its failure to conform with tax collection regulations.

Each of the states and the District of Columbia separately administers its sales and use tax system. In addition, in numerous states the local tax jurisdictions separately administer their sales and use taxes,<sup>19</sup> and rates within a state can vary considerably because of differences among the local governments.

While the details of registration and compliance differ from one jurisdiction to the next, there are certain regulatory requirements that retailers must satisfy in all jurisdictions. The retailer must complete a form to register and in some cases pay a fee. It must separately state in its advertisements the applicable tax. The retailer must collect the tax only at the specified use

<sup>17</sup> Attached as Appendix 1 is a summary of the states, counties, municipalities, transit districts and other localities that have assessed sales and use taxes since 1976.

<sup>18</sup> In 1990, the California Legislature, with only 24 days notice, enacted an emergency ¼ percent sales and use tax increase. (Cal. Rev. & Tax Code §§ 6051.1, 6201.1.) Those mail order companies which were registered to collect the California use tax were unable to collect this additional tax for several months because the catalogs they distributed to their California customers already indicated the lower tax rate. Thus, these companies had to pay the additional taxes themselves, and were unable to obtain reimbursement of these increased taxes from their customers, the true taxpayers.

<sup>19</sup> There are approximately 400 local jurisdictions that separately administer their use tax laws. See Appendix 3.

tax rate for each jurisdiction and only on non-exempt sales of non-exempt products.

In addition, the retailer is required to file periodic returns and pay estimated or actual use taxes on a regular basis — usually monthly — to each jurisdiction in which it is registered. Moreover, a retailer must retain its records and make its books available for audit.

If *Bellas Hess* were overruled, mail order companies would have to register in a multitude of jurisdictions and would be required to file returns, remit taxes, and conform to a myriad of diverse regulations. The dilemma and hardship mail order companies would encounter was underscored by this Court in *National Bellas Hess, supra*, 386 U.S. at 759-760:

And if the power of Illinois to impose use tax burdens upon National were upheld, the resulting impediments upon the free conduct of its interstate business would be neither imaginary nor remote. . . . The many variations in rates of tax, in allowable exemptions, and in administrative and record-keeping requirements could entangle National's interstate business in a virtual welter of complicated obligations to local jurisdictions with no legitimate claim to impose "a fair share of the cost to the local government."

The problems of use tax collection in 1991 are even greater than they were in 1967.<sup>21</sup>

First, catalog production would become unbearably expensive and confusing. A mail order company would have to devote valuable catalog space to providing its customers with detailed sales tax instructions for an even greater number of

<sup>21</sup> National Bellas Hess was a large mail order firm with sales of \$60 million per year and sales to Illinois residents during the 15 month period in issue of \$2,174,744. *National Bellas Hess, Inc. v. Dep't. of Revenue*, 386 U.S. 753, 761 (1967). Despite its size, this Court viewed the potential burdens on the retailer as being large and unfair. Most of DMA's current members are far smaller than National Bellas Hess was in 1967.

states and localities than would have been required in 1967.<sup>21</sup> Each mail order catalog would have to inform customers:

- (1) of applicable tax rates for each state and local tax jurisdiction;
- (2) of transactions which are exempt (*e.g.*, sales to charitable organizations, schools, government agencies, in *some* states);<sup>22</sup>
- (3) of items which are exempt (*e.g.*, some states exempt clothing, food and other consumer products);<sup>23</sup> and
- (4) whether to calculate taxes before or after adding shipping and handling charges, since in some states sales and use taxes are imposed on shipping and handling charges in addition to the cost of the product.<sup>24</sup>

<sup>21</sup> In 1967, there were 2,300 local jurisdictions and 12 states which would have required mail order companies to collect the use tax. *National Bellas Hess*, 386 U.S. at 758, n.11, and 759, n.12. Today, the number of jurisdictions has almost tripled. In addition, in 1967 the number of different tax rates among the jurisdictions was only eight. Today, there are 90 different rates. See Appendix 2.

<sup>22</sup> Categories of exempt transactions differ greatly among the states (ACIR 1986 Study at 8.)

<sup>23</sup> There is a great disparity among the states regarding tax exempt items. For example, the exemptions for clothing vary broadly among the states. Connecticut exempts "children's clothing" and clothing or footwear that costs less than \$75, but excludes clothing that may be worn exclusively during sporting events. (*Conn. Gen. Stat. §§ 7204 176-130(26)*.) New Jersey exempts clothing and footwear except articles made with fur when fur is the component material of chief value in the article. (*N.J. Admin. Code 18:25-6 Reg. 18:24-6.1*.) Minnesota exempts clothing, but not footwear or products made of fur if the value of the fur is more than three times the value of the next most valuable component. (*Minn. Stat. § 297A.25(8)*.) Massachusetts exempts clothing and footwear that costs up to \$175, special clothing or footwear primarily designed for athletic activity or protective use and which is not normally worn except when so used. (*Mass. Gen. L. Ch. 64H(k) § 6*.) Rhode Island exempts clothing and footwear, except special clothing or footwear. (*R.I. Gen. Laws § 44-18-30(cc)*.)

<sup>24</sup> Mailing of individualized catalogs for each state is neither a viable economic alternative nor a solution to the problem. A large portion of mail order sales are gifts delivered to recipients in states other than that of the purchaser. Since it is the destination state where the goods are to be used that is entitled to the use tax, it is difficult to determine in advance the applicable tax rates and regulations.



In Congressional hearings, the mail order company L.L. Bean, Inc. estimated that its direct costs in 1987 for devoting catalog space to explain the sales tax rates and exemptions of the 45 states and the District of Columbia alone (*i.e.*, excluding local jurisdictions) would have been \$950,000, plus there would have been an opportunity cost for that year of \$9.5 million to reallocate catalog space from advertising to sales tax instructions. (1987 House Hearings at 152, 155; testimony of William T. End.) Moreover, there are no computer programs available to track exempt products and transactions for each of the tax jurisdictions. (*See Responses of Vertex*, a company that licenses computer software for sales and use tax collection, to Questions 12 and 15 from the Multistate Tax Commission in Appendix 4; 1987 House Hearings at 161.)<sup>25</sup>

Second, customer confusion in placing orders is likely to increase as a result of consumers attempting to determine whether a particular purchase is taxable and the amount of state and local tax payable. Confusion would also arise when mailing gifts, an important segment of the mail order industry. Consumers would need to determine whether it is the tax rate and exemptions of their own state or that of the gift recipient's state which applies. Many customers will undoubtedly be deterred from placing orders due to the increased complexity of the transaction.

<sup>25</sup> Alan Glazer, President of Bedford Fair Industries of New York, testified before Congress on the problems of a mail order company collecting the tax from multiple jurisdictions:

They may have 70 different taxing districts in New York State. Villages and counties can all add their percentage on top of that. It goes as high as perhaps eight and a half percent some places in the State . . . It is easy to say the computer will handle it. Four years and hundreds of thousands of dollars after installing that system, it does not properly calculate sales tax for 70 different taxing districts. And I would maintain that there is little difference between collecting for 45 states and 70 districts within the State of New York. At least within the State of New York, the items taxed are all the same; it is only the rate that differs. [Testimony Before the Senate Finance Subcommittee on Taxation and Debt Management on S1510-November 15, 1985; emphasis added.]

Third, the post-sale collection costs for mail order companies could be enormous. If a consumer failed to include the tax with his or her payment — despite the mail order vendor's best efforts to inform its customers of applicable taxes — the mail-order company would then be forced to pursue collection of the tax. Post-sale collection costs can be greater than the amount of tax due, particularly in view of the relatively small amount of tax per transaction.<sup>26</sup> Moreover, if the tax is not collected from the customer, the retailer then becomes directly liable for the tax. It is estimated that mail order companies which currently collect use taxes experience underpayment for over nine percent of the taxes due.<sup>27</sup>

<sup>26</sup> The average transaction value for sales by mail is \$50. (1987 House Hearings at 132; Testimony of Direct Marketing Association.)

<sup>27</sup> *Id.* at 134. Alan Glazer described to Congress the Hobson's choice a mail order company such as his would confront regarding the collection of sales taxes:

In the case of a retailer, the customer steps up to the cash register and presents her \$20 item, the cash register electronically computes the tax, and there is no way that the title to the goods is going to pass to the consumer until she has perhaps paid \$21 for her \$20 handbag, for example.

It is quite different in a mail order transaction, whereby a customer sends a check to the mail order company for \$20 plus perhaps \$3 for shipping and handling, of \$23, and if she fails to pay the sales tax, at that point the mail order seller is involved in a Hobson's choice. Should he return the order to the consumer, whereby he would lose the sale? Would he irritate or aggravate the consumer who is expecting rapid shipment and immediate gratification of her desires by sending 2,000 or 3,000 miles away for this \$20 blouse, handbag or what have you?

The cost of handling that order on an individual exception basis, as soon as it kicks out of the main stream, the cost to the mail order company immediately exceeds the amount of the sales tax, which if it was 5 percent on the \$20 purchase, would be \$1. It immediately costs more than \$1 to handle that situation.

If you assume that the average well-run mail order company has a pretax profit of approximately 5 percent, and if the sales tax due is 5 percent, as soon as this mail order company must pay that sales tax — and in the end that is what the company would do — they have lost the profit from the sale and they will have to go on to hope to make a profit on another sale. [1987 House Hearings at 130.]

Fourth, a mail order company would have overwhelming (and unending) tax reporting obligations, and it would be subject to audit procedures that vary tremendously among the states. Certainly, most mail order companies lack the resources to manage this task.

The ACIR Study found, "[c]ompliance costs appear to be a particularly serious problem for the numerous small [mail order] firms . . ." (*ACIR 1986 Study* at 6.) The ACIR estimated that compliance costs would be close to four times more for small mail order firms than for large companies. (*ACIR 1986 Study* at 49.) Similarly, a 1987 study, conducted by the public accounting firm of Touche Ross and presented to the House and Senate committees considering proposed federal legislation, found that the smaller the company, the larger the relative cost of collection. 1987 House Hearings at 133. Indeed, firms with sales of less than \$5 million cannot even acquire the available computer software programs. (*ACIR 1986 Study* at 67.)

A point-of-sale retailer does not encounter such problems, because it is required to deal with only one tax and one state bureaucracy for any given retail location.<sup>28</sup> The Touche Ross study discussed above noted that mail order marketers on average incur 6 to 7 times the collection costs of retailers that collect sales tax at the cash register. (*See, e.g.,* 1987 House Hearings at 133.)

There are few small mail order firms, especially in these distressed economic times, that could afford these additional and disproportionately burdensome costs. Clearly, many per-

<sup>28</sup> The North Dakota Supreme Court also grounded its decision on its observation that mail order companies have an unfair price advantage over in-state retailers because customers of mail order companies avoid paying any sales or use tax. (470 N.W.2d at 203.) The statement is inaccurate for the following reasons. First, virtually every mail order company imposes a shipping and handling charge, which usually far exceeds the amount of any sales or use tax that would be due on the transaction. Second, consumers are not relieved of any tax obligations as a result of their mail order purchases. The issue is not whether consumers must pay the use tax, but whether out-of-state retailers, as opposed to the states themselves, must collect the tax. Alternative methods for collecting the use tax from their own residents are available to the states, as discussed *infra*.

sons who otherwise might have entered the mail order business would not be willing to assume the additional burden and expense. In short, an industry that has traditionally been characterized by its ease of entry would now present substantial barriers to new entrants. A retailer contemplating the sale of its products across state borders would have to be prepared to devote extensive (and unproductive) resources to satisfy the divergent requirements of a multitude of tax jurisdictions.

Because of their lack of physical presence in the taxing state, out-of-state retailers receive no direct benefits from the state governments for whom they would be acting as tax collectors.<sup>29</sup> Moreover, they have no representation in the political process and cannot politically protect themselves from overbearing obligations imposed on them by state legislatures, such as those contained in the statute passed by the North Dakota legislature.<sup>30</sup>

<sup>29</sup> The North Dakota Supreme Court's claim that municipalities' disposal of catalogs constitutes a benefit to mail order companies is entirely unsubstantiated. In fact, catalogs are being recycled. *See* National Solid Waste Management Association, *At A Glance* (1991) (reporting on studies conducted by Franklin Associates, Ltd. for the U.S. Environmental Protection Agency). Plants for recycling newspapers, catalogs, and other paper products generally pay for their raw materials. Municipalities can obtain additional revenue by recycling the catalogs that their residents discard. Moreover, the North Dakota Supreme Court's decision fails to explain how local government disposal of catalogs is a benefit to direct marketers or a burden which direct marketers impose on municipalities. Although Quill mails catalogs to North Dakota businesses, it is the North Dakota businesses which own the delivered catalogs and decide how long they will retain the catalogs before disposing of them. *SFA Folio Collections, Inc. v. Bannon*, 585 A.2d 666, 671 (Conn. 1991), *cert. denied*, 59 U.S.L.W. 3743 (June 17, 1991, n.6) ("Because the catalogs are the property of the Connecticut residents, it is axiomatic that it is the resident who is deriving the benefit from the state and who must contribute to the cost of the disposal."). All of DMA's members provide convenient arrangements for their customers to have their names removed from catalog companies' mailing lists and/or not to have their names made available to other companies. Indeed, DMA provides a "preference service" to consumers by which it will arrange, free of charge, to have a consumer's name removed from all of its members' mailing lists.

<sup>30</sup> Because of the lack of political representation, this Court has looked closely at state legislation that imposes burdens on out-of-state companies. *See Southern Pacific Co. v. Arizona*, 325 U.S. 761, 767-68, n.2 (1945) ("This Court has often recognized that to the extent . . . the burden of state regulation falls on interests outside the state, it is unlikely to be alleviated by the operation of those political restraints normally exerted when interests within the state are affected.")



B. *The Legal Underpinnings of Bellas Hess Have Not Been Eroded.*

In departing from the *Bellas Hess* physical presence nexus requirement, the North Dakota Supreme Court asserted that the legal landscape has changed in the last twenty-four years. *Bellas Hess*, however, is only one of a long, unbroken, and continuing line of U.S. Supreme Court decisions which have held that a state may not deputize an out-of-state company to collect its sales and use taxes unless that company has a physical business presence in the state.

Recent Court decisions under both the Commerce Clause and Due Process Clause have followed this nexus principle.<sup>31</sup> Although *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274, 279 (1977), set forth a new four-prong test for Commerce Clause challenges to state taxation,<sup>32</sup> the Court required as the first prong of the test a "substantial nexus with the taxing State." As the

<sup>31</sup> See *Jimmy Swaggert Ministries v. Cal. Bd. of Equalization*, 493 U.S. 378, 110 S.Ct. 688, 699 (1990) (*Bellas Hess* sets forth the proper standard for use tax collection); *Goldberg v. Sweet*, 488 U.S. 252, 263 (1989) (under *Bellas Hess* "receipt of mail provides insufficient nexus"); *D.H. Holmes Co., Ltd. v. McNamara*, 486 U.S. 24, 33 (1988) (confirms *Bellas Hess* distinction between a company with stores and employees in a state and a mail order company whose "only connection with its . . . customers was by mail or common carrier."); *Mobil Oil Corp. v. Comm'n of Taxes of Vermont*, 445 U.S. 425, 436-37 (1986) (citing *Bellas Hess* for proposition that nexus is required under Commerce Clause and Due Process Clause and finding requisite nexus only if "corporation avails itself of the 'substantial privilege of carrying on business within the State'").

<sup>32</sup> The *Complete Auto* four prong test was established to determine whether a state can tax activities which occur in interstate commerce. Here, however, the question is not whether the transaction itself is subject to tax. There is no dispute that North Dakota has the authority to tax the in-state use of goods purchased by its residents from out-of-state retailers. Instead, this case concerns the question of whether North Dakota can extend its regulatory scheme for collection of use taxes to companies located outside its borders and lacking a physical nexus within the state. See *Bendix Autolite Corp. v. Midwesco Enterprises, Inc.*, 486 U.S. 888 (1988); *Brown-Forman Distillers Corp. v. New York State Liquor Authority*, 476 U.S. 573 (1986); and *Allenberg Cotton Co. v. Pittman*, 419 U.S. 20 (1974), which set forth a standard for evaluating state regulatory authority under the Commerce Clause that is virtually identical to the *Bellas Hess* physical presence standard.

Court stated in *Commonwealth Edison Co. v. Montana*, 453 U.S. 609, 626 (1981), under this first prong, "the interstate business must have a substantial nexus with the State before any tax may be levied on it. See *National Bellas Hess, Inc. v. Illinois Revenue Dept.*, 386 U.S. 753 (1967)." (Emphasis in original.) Similarly, under the Due Process Clause, there must be a nexus between the out-of-state activities or company being taxed and the taxing state. See, e.g., *Container Corp. of America v. Franchise Tax Bd.*, 463 U.S. 159, 165-66 (1983).

The *Bellas Hess* decision created a clear and certain standard which permits both mail order companies and state revenue departments to determine readily the point at which the activities of an out-of-state company cross the nexus-threshold, thereby justifying the imposition of use tax collection responsibilities. In employing that standard, lower courts undertake the conventional judicial process of applying an unambiguous legal principle to specific facts. The North Dakota Supreme Court could have readily employed the *Bellas Hess* standard to determine whether Quill's physical contacts with the State of North Dakota were sufficient to create nexus.<sup>33</sup>

C. *Mail Order Companies Have Relied On The Bellas Hess Doctrine, And Its Reversal Would Expose Mail Order Vendors To Crushing Back-Tax Liabilities For Uncollected Use Taxes.*

Mail order companies have relied on the physical business presence, bright line nexus standard in determining whether they are obligated to collect state use taxes, and, generally, they have

<sup>33</sup> Indeed, the North Dakota Supreme Court itself maintained that it did not have to disregard the *Bellas Hess* standard in order to impose use tax collection obligations on Quill based on the facts before it. It found that Quill maintained property in North Dakota in the form of licensed software it provided to customers to aid in their ordering products. (470 N.W.2d at 216.) As the North Dakota court recognized, under *National Bellas Hess* (386 U.S. at 758), a company's ownership of property in a state can establish the requisite nexus to permit the state to impose use tax collection obligations on the company. The North Dakota Supreme Court's "overruling" of *Bellas Hess* was entirely unnecessary and an improper exercise of its judicial authority.

neither registered nor filed returns in those states where they have lacked a physical presence.<sup>34</sup> If this Court overturns *Bellas Hess* — and does not make its decision purely prospective — then every mail order company which previously declined to collect use taxes would become subject to assessment and back-tax liability for its failure to collect use taxes in past years.<sup>35</sup>

Of course, many companies, especially smaller ones, will not be able to discharge this potential liability and will terminate their businesses or seek protection from their creditors, including state revenue departments, in bankruptcy. The closure of businesses, loss of jobs, depletion of corporate assets, and elimination of valuable contributors and competitors in the retail marketplace will be the tragic consequence suffered by an industry that relied, to its detriment, on a clear line of Supreme Court cases.

Even if the Court were to revise the standard but give it only prospective effect<sup>36</sup> there would still be substantial harm to those companies which remain in the industry. A decision of this Court, even if it is given purely prospective effect, nonetheless becomes effective on the day it is announced. *American*

<sup>34</sup> A thorough discussion of the reliance of the mail order industry on the *Bellas Hess* standard and the effect of such reliance on the principle of *stare decisis* as it applies to this case is contained in the brief of *amicus* Arizona Mail Order Co., *et al.* DMA joins in that brief in its entirety.

<sup>35</sup> It is unlikely that companies could recover from their customers any amounts assessed by the states. First, it may be difficult to locate customers long after the transaction took place. Second, since the average mail order sale is only \$50, the amount of tax outstanding per customer is quite small (\$2.00 - \$4.00). The costs of collection would far exceed the amount to be collected. Third, it is unclear whether mail order companies have the legal right to collect use taxes from customers after the transaction has occurred. Most state sales and use tax statutes authorize collection only at the time the sale takes place.

<sup>36</sup> This case certainly satisfies the three-pronged test for prospective-only application of court decisions set forth in *Chevron Oil Co. v. Huson*, 404 U.S. 97, 106-07 (1971), and followed in *American Trucking Associations, Inc. v. Smith*, U.S. , 110 S. Ct. 2323, 2331 (1990). First, a reversal of *Bellas Hess* clearly establishes new law. Second, prospective application of any new standard created by the reversal of *Bellas Hess* would not retard its operation. Finally, because of the industry's reliance, substantial prejudice to the entire industry would result if any new standard is applied retroactively.

*Trucking Associations, Inc. v. Smith*, U.S. , 110 S.Ct. 2323, 2335 (1990). There is no transition period.

Mail order companies, however, would not be able to begin collecting use taxes immediately; it would take several months for them to be in a position to collect taxes from their customers. Catalogs take months to produce and print. Moreover, catalogs provide prices and terms of sales that are effective for a several-month period. In fairness to their customers, mail order companies would have to forego collecting taxes from consumers for at least several months. During that time, however, the taxes would remain due to the states from the retailers.

D. *A Reversal Of The Bellas Hess Doctrine Is Not Necessary, Because The States Already Have The Means To Collect Any Unpaid Use Taxes Directly From Consumers.*

Most states have failed to make any effort to collect the use tax from their own residents from whom the tax is due; instead, the states summarily seek to have this Court direct the burden of tax collection onto mail order vendors, for whom it would be extremely expensive.<sup>37</sup>

In fact, there are reasonable and efficient means for states to collect the use tax directly from taxpayers. The State of Maine, for example, requires each income tax filer to attest on his or her income tax return the volume of purchases from out-of-state companies and then add the amount of applicable use taxes to the Maine personal income tax return. If no purchase amount is specified, then a scheduled amount of use taxes is automatically added.<sup>38</sup> New Jersey similarly requires reporting of use

<sup>37</sup> The Touche Ross Study found that it would cost mail order companies \$.15 for every tax dollar collected. 1987 House Hearings at 133 (Testimony of Direct Marketing Association delivered by Alan Glazer, President of Bedford Fair Industries, Ltd.).

<sup>38</sup> The scheduled amount is 4/100 of 1% of adjusted gross income. In other words, a family with an adjusted gross income of \$30,000 would pay \$12 as the scheduled amount of use taxes if it chose not to separately itemize out-of-state purchases. 36 M.R.S.A. § 1861-A. The Maine use tax collection scheme, first used for 1990 tax returns, appears to be successful in raising additional use tax

taxes owed on state income tax returns. Direct collection by states of use taxes from their residents would avoid unconstitutional burdens on interstate commerce and also resolve the lost-revenue<sup>39</sup> concerns of the states. To date, most states have not even attempted this alternative.

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revenues. As reported in the *Portland [Maine] Press Herald*:

Lafaver [Maine State Tax Assessor John D. LaFaver] said the early response to the new collection mechanism is encouraging and reinforces his belief that taxpayers will pay what they owe if the obligation is spelled out clearly.

*State Rakes In Little-Known Tax With A New Line On its Form*, *Portland Press Herald*, Mar. 6, 1991, at 3D.

<sup>39</sup>Claims of lost tax revenue are frequently over-estimated by state tax authorities because they base their estimates on the total volume of mail order sales nationally. In fact, however, large mail order retailers with stores in numerous states, such as Sears and J.C. Penney, already collect use taxes on their mail order sales because they have nexus in most states. A 1986 study by the economic consulting firm of Robert R. Nathan Associates, the results of which were submitted to Congress, found that there was already use tax collection on 50 percent of the taxable mail order sales by companies with sales greater than \$12.5 million. (1987 House Hearings at 136.) Moreover, the claimed lost tax revenue is a diminishing concern. Many retailers who begin solely as mail order marketers, with facilities in only one state, later expand and open retail stores and distribution centers in other states. Once they open such facilities, these retailers commence collection of the applicable sales and use tax on their mail order sales.

### Conclusion.

For the foregoing reasons, the judgment below should be reversed.

Dated: November 21, 1991

Respectfully submitted,

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**APPENDIX 1**  
**LOCAL GOVERNMENTS WITH SALES TAXES**  
**SELECTED YEARS (1976-1990)**

Prepared by U.S. Advisory Commission on Intergovernmental  
Regulations: *Significant Features of Fiscal Federalism*, Vol-  
ume 1 (February, 1991)



Table 32  
Local Governments with Sales Taxes, Selected Years 1976-1990

| State               | 1990 | 1989  | 1988  | 1987  | 1986  | 1984  | 1981  | 1979  | 1976  |
|---------------------|------|-------|-------|-------|-------|-------|-------|-------|-------|
| Alabama (Total)     | 403  | 398   | 389   | 382   | 374   | 353   | 321   | 301   | 265   |
| Municipalities      | 344  | 343   | 334   | 326   | 323   | 310   | 281   | 270   |       |
| Counties            | 59   | 55    | 55    | 56    | 51    | 43    | 40    | 31    |       |
| Alaska (Total)      | 101  | 101   | 101   | 93    | 97    | 99    | 92    | 93    | 86    |
| Municipalities      | 95   | 95    | 95    | 87    | 91    | 92    | 85    | 86    |       |
| Boroughs            | 6    | 6     | 6     | 6     | 6     | 7     | 7     | 7     |       |
| Arizona (Total)     | 85   | 83    | 81    | 77    | 75    | 70    | 59    | 39    | —     |
| Municipalities      | 82   | 81    | 79    | 75    | 74    | 70    | 59    | 39    | 38    |
| Counties            | 3    | 2     | 2     | 2     | 1     | —     | —     | —     | —     |
| Arkansas (Total)*   | 185  | 175   | 142   | 111   | 78    | 60    | 2     | 1     | 1     |
| Municipalities      | 131  | 120   | 100   | 76    | 59    | 44    | 2     | 1     |       |
| Counties            | 54   | 55    | 42    | 35    | 19    | 16    | —     | —     |       |
| California (Total)* | 460  | 450   | 446   | 445   | 444   | 443   | 441   | 441   | 438   |
| Municipalities      | 380  | 380   | 380   | 380   | 380   | 380   | 380   | 380   |       |
| Counties            | 58   | 58    | 58    | 58    | 58    | 58    | 58    | 58    |       |
| Special Districts   | 22   | 12    | 8     | 7     | 6     | 5     | 3     | 3     |       |
| Colorado (Total)    | 236  | 235   | 235   | 225   | 222   | 205   | 183   | 165   | 121   |
| Municipalities      | 198  | 200   | 200   | 193   | 191   | 175   | 159   | 144   |       |
| Counties            | 37   | 34    | 34    | 31    | 30    | 29    | 23    | 20    |       |
| Transit District    | 1    | 1     | 1     | 1     | 1     | 1     | 1     | 1     |       |
| Florida (Total)*    | 23   | 11    | 10    | 0     | 0     | —     | —     | —     | —     |
| Counties            | 21   | 10    | 10    |       |       |       |       |       |       |
| Transit District    | 2    | 1     |       |       |       |       |       |       |       |
| Georgia (Total)*    | 165  | 154   | 155   | 144   | 143   | 133   | 104   | 84    | 16    |
| Municipalities      | 0    | 0     | 0     | 0     | 0     | 0     | 0     | 3     |       |
| Counties            | 164  | 153   | 154   | 143   | 142   | 132   | 103   | 80    |       |
| Transit District    | 1    | 1     | 1     | 1     | 1     | 1     | 1     | 1     |       |
| Idaho*              |      |       |       |       |       |       |       |       |       |
| Illinois (Total)*   | 34   | 1,348 | 1,383 | 1,375 | 1,376 | 1,353 | 1,359 | 1,359 | 1,342 |
| Municipalities      | 31   | 1,278 | 1,279 | 1,271 | 1,272 | 1,249 | 1,256 | 1,256 |       |
| Counties            | 0    | 68    | 102   | 102   | 102   | 102   | 102   | 102   |       |
| Transit Districts   | 2    | 2     | 2     | 2     | 2     | 2     | 1     | 1     |       |
| Water District      | 1    |       |       |       |       |       |       |       |       |
| Iowa                |      |       |       |       |       |       |       |       |       |
| Counties            | 12   | 9     | 5     |       |       |       |       |       |       |
| Kansas (Total)      | 180  | 178   | 175   | 168   | 168   | 139   | 40    | 20    | 7     |
| Municipalities      | 119  | 116   | 112   | 108   | 108   | 87    | 35    | 15    |       |
| Counties            | 61   | 62    | 62    | 60    | 60    | 52    | 5     | 5     |       |
| Louisiana (Total)   | 325  | 325   | 302   | 302   | 287   | 253   | 251   | 217   | 183   |
| Municipalities      | 193  | 189   | 193   | 192   | 177   | 158   | 152   | 136   |       |
| Parishes            | 63   | 64    | 63    | 63    | 63    | 30    | 30    | 21    |       |
| School Districts    | 48   | 47    | 46    | 47    | 47    | 65    | 66    | 60    |       |
| Special Districts   | 21   | 25    | 23    | 23    | 23    | 18    | 12    | 7     |       |
| Minnesota           |      |       |       |       |       |       |       |       |       |
| Municipalities      | 3    | 3     | 3     | 3     | 1     | 2     | 1     | 1     | 1     |
| Missouri (Total)*   | 725  | 698   | 674   | 657   | 556   | 487   | 333   | 215   | 152   |
| Municipalities      | 508  | 490   | 479   | 474   | 458   | 406   | 332   | 214   |       |
| Counties            | 126  | 126   | 120   | 114   | 98    | 81    |       | 1     | 1     |
| Transit Districts   | 91   | 82    | 75    | 69    |       |       |       |       |       |
| Nebraska            |      |       |       |       |       |       |       |       |       |
| Municipalities      | 41   | 30    | 25    | 22    | 16    | 12    | 7     | 4     | —     |
| Nevada (Total)*     | 7    | 7     | 7     | 7     | 5     | 1     | 1     | 13    | 12    |
| Municipalities      | —    | —     | —     | —     | —     | —     | —     | —     | 1     |
| Counties            | 7    | 7     | 7     | 7     | 5     | 1     | 1     | 12    |       |
| New Mexico (Total)  | 135  | 134*  | 132   | 128   | 134   | 120   | 84    | 99    | 32    |
| Municipalities      | 102  | 101*  | 101   | 100   | 101   | 98    | 76    | 93    |       |
| Counties            | 33   | 33    | 31    | 28    | 33    | 22    | 8     | 6     |       |
| New York (Total)    | 87   | 85    | 83    | 85    | 81    | 87    | 74    | 70    | 68    |
| Municipalities      | 25   | 30    | 28    | 26    | 27    | 29    | 29    | 25    |       |
| Counties            | 61   | 54    | 54    | 58    | 53    | 57    | 45    | 45    |       |
| Transit District    | 1    | 1     | 1     | 1     | 1     | 1     | —     | —     |       |

Table 32 (cont.)  
Local Governments with Sales Taxes, Selected Years 1976-1990

| State                                   | 1990  | 1989  | 1988  | 1987  | 1986  | 1984  | 1981   | 1979  | 1976  |
|---|-------|-------|-------|-------|-------|-------|--------|-------|-------|
| North Carolina<br>Counties              | 100   | 100   | 100   | 100   | 100   | 100   | 99     | 99    | 96    |
| North Dakota<br>Municipalities          | 5     | 5     | 4     | 3     | 3     | —     | —      | —     | —     |
| Ohio (Total)                            | 89    | 90    | 88    | 81    | 76    | 65    | 55     | 51    | 33    |
| Counties                                | 83    | 85    | 83    | 79    | 74    | 62    | 52     | 50    | 33    |
| Transit Districts                       | 4     | 3     | 3     | 2     | 2     | 3     | 3      | 1     | —     |
| Islands                                 | 2     | 2     | 2     | —     | —     | —     | —      | —     | —     |
| Oklahoma (Total)                        | 494   | 492   | 479   | 473   | 466   | 447   | 398    | 398   | 356   |
| Municipalities                          | 470   | 468   | 458   | 457   | 452   | 441   | 398    | 398   | 356   |
| Counties                                | 24    | 24    | 21    | 16    | 14    | 6     | —      | —     | —     |
| South Carolina*                         |       |       |       |       |       |       |        |       |       |
| South Dakota (Total)                    | 139   | 135   | 120   | 111   | 107   | 82    | 61     | 46    | 18    |
| Municipalities                          | 136   | 132   | 117   | 111   | 107   | 82    | 61     | 46    | 18    |
| Indian Reservations                     | 3     | 3     | 3     | —     | —     | —     | —      | —     | —     |
| Tennessee (Total)                       | 104   | 106   | 106   | 105   | 105   | 102   | 105    | 104   | 115   |
| Municipalities                          | 9     | 11    | 11    | 10    | 10    | 8     | 11     | 12    | —     |
| Counties                                | 95    | 95    | 95    | 95    | 95    | 94    | 94     | 92    | —     |
| Texas (Total)*                          | 1,276 | 2,610 | 1,107 | 1,029 | 1,032 | 1,120 | 949    | 946   | 854   |
| Municipalities                          | 1,164 | 2,521 | 1,023 | 1,023 | 1,026 | 1,117 | 921    | 921   | —     |
| Counties                                | 105   | 82    | 78    | —     | —     | —     | —      | —     | —     |
| Transit Districts                       | 7     | 7     | 6     | 6     | 6     | 3     | 28     | 25    | —     |
| Utah (Total)*                           | 251   | 260   | 258   | 248   | 248   | 248   | n.a.   | 230   | 204   |
| Municipalities                          | 222   | 225   | 222   | 219   | 219   | 219   | n.a.   | 201   | —     |
| Counties                                | 29    | 29    | 29    | 29    | 29    | 29    | 29     | 29    | —     |
| Transit Districts                       | n.a.  | 6     | 7     | —     | —     | —     | —      | —     | —     |
| Virginia (Total)                        | 136   | 136   | 136   | 136   | 136   | 136   | 136    | 136   | 133   |
| Municipalities                          | 41    | 41    | 41    | 41    | 41    | 41    | 41     | 41    | —     |
| Counties                                | 95    | 95    | 95    | 95    | 95    | 95    | 95     | 95    | —     |
| Washington (Total)                      | 307   | 305   | 307   | 307   | 305   | 306   | 302    | 302   | 300   |
| Municipalities                          | 268   | 266   | 267   | 268   | 266   | 267   | 264    | 264   | —     |
| Counties                                | 39    | 39    | 40    | 39    | 39    | 39    | 38     | 38    | —     |
| Wisconsin<br>Counties                   | 28    | 24    | 18    | 12    | 2     | —     | —      | —     | —     |
| Wyoming<br>Counties                     | 19    | 19    | 16    | 15    | 14    | 15    | 15     | 13    | 5     |
| U.S. Total                              | 6,155 | 8,814 | 6,955 | 6,892 | 6,705 | 6,492 | 5,702* | 5,448 | 4,893 |
| Percentage Change from<br>Previous Year | 30%   | 26%   | 1%    | 1%    | 1%    | 14%   | 5%     | 11%   | —     |
| n.a. not available                      |       |       |       |       |       |       |        |       |       |
| — not authorized                        |       |       |       |       |       |       |        |       |       |

\*State Notes

Arkansas Local governments can levy a 1% sales tax for 12 months to finance Capital Improvements.

California Los Angeles and San Francisco impose a special gross receipts tax. The 22 Special Districts include 19 Transit Districts.

Florida There are 21 local governments that impose the sales tax as a local infrastructure surtax and 2 as a Charter County Transit System surtax.

Georgia Local School Tax—Specified counties are authorized to impose a local sales and use tax for educational purposes. To date, no counties levy the tax.

Idaho Resort cities may, subject to voter approval, adopt, implement, and collect a tax on part or all of the sales subject to the state sales tax.

Illinois

Iowa

Missouri

Nevada

Utah

On 1/1/90, a portion of the statewide sales tax will be returned to local governments where the goods were purchased. On 9/1/90, home rule cities will be able to impose sales taxes. All taxes will be collected by the state department of revenue. As a result, the number of local government units with sales taxes has decreased. Municipalities impose and collect a use tax.

Excluded from total. Tax is on a county basis. Dedicated for transportation purposes.

Includes only counties that levy an optional local sales tax to promote tourism or for transportation.

All counties impose sales tax. As of 1/1/90, most recent statistics available from the Utah Department of Revenue.

Source: ACIR staff compilations based on Commerce Clearing House, *State Tax Reporter* (Chicago, November 1990). See also Advisory Commission on Intergovernmental Relations, *Local Revenue Diversification: Local Sales Taxes* (Washington, DC, 1989). See Table 33 for local rates.



**APPENDIX 2**

**COMBINED SALES AND USE TAX RATES  
THROUGHOUT THE UNITED STATES**

**Prepared by Vertex, Inc. (Berwyn Pennsylvania)  
November 1, 1991**

**RESPONSE TO DMA QUESTION NUMBER 2  
COMBINED SALES AND USE TAX RATES**

| <b>Tax<br/>Rate</b> | <b>Number of<br/>States<br/>Imposing Rate</b> | <b>Tax<br/>Rate</b> | <b>Number of<br/>States<br/>Imposing Rate</b> |
|---------------------|---|---------------------|---|
| .01                 | 1   | .06313              | 1   |
| .015                | 1   | .0635               | 1   |
| .02                 | 1   | .06475              | 1   |
| .03                 | 3   | .065                | 12  |
| .0325               | 1   | .0655               | 1   |
| .035                | 2   | .06555              | 1   |
| .0380               | 1   | .066                | 1   |
| .04                 | 12  | .0666               | 2   |
| .04225              | 1   | .067                | 2   |
| .0425               | 1   | .06725              | 1   |
| .0430               | 1   | .0675               | 8   |
| .045                | 5   | .0680               | 2   |
| .046                | 1   | .06813              | 1   |
| .04725              | 1   | .06850              | 1   |
| .0475               | 1   | .06975              | 1   |
| .0485               | 2   | .07                 | 18  |
| .04975              | 1   | .0705               | 1   |
| .05                 | 23  | .071                | 2   |
| .051                | 2   | .07125              | 1   |
| .05125              | 2   | .07225              | 1   |
| .05225              | 1   | .0725               | 7   |
| .0525               | 3   | .0730               | 2   |
| .05375              | 1   | .07375              | 1   |
| .05475              | 1   | .07475              | 1   |
| .055                | 14  | .075                | 12  |
| .0555               | 1   | .0755               | 2   |
| .05563              | 1   | .076                | 2   |
| .0560               | 1   | .07666              | 1   |
| .05625              | 1   | .0770               | 3   |



**RESPONSE TO DMA QUESTION NUMBER 2  
COMBINED SALES AND USE TAX RATES (cont.)**

| <b>Tax<br/>Rate</b> | <b>Number of<br/>States<br/>Imposing Rate</b> | <b>Tax<br/>Rate</b> | <b>Number of<br/>States<br/>Imposing Rate</b> |
|---------------------|---|---------------------|---|
| .05688              | 1   | .07725              | 1   |
| .05725              | 1   | .0775               | 7   |
| .0575               | 8   | .0780               | 3   |
| .0580               | 3   | .079                | 1   |
| .05813              | 1   | .08                 | 10  |
| .0585               | 2   | .08125              | 1   |
| .05875              | 1   | .082                | 2   |
| .05938              | 1   | .0825               | 6   |
| .05975              | 1   | .08375              | 1   |
| .06                 | 24  | .085                | 6   |
| .06063              | 1   | .0855               | 1   |
| .061                | 1   | .0875               | 1   |
| .06125              | 1   | .09                 | 3   |
| .06188              | 1   | .095                | 2   |
| .06225              | 1   | .10                 | 1   |
| .0625               | 14  |                     |   |
| .0630               | 1   |                     |   |

TOTAL DIFFERENT COMBINED RATES = 90

VERTEX INC.

NOVEMBER 1, 1991

**APPENDIX 3**

**LOCALLY ADMINISTERED USE TAX  
JURISDICTIONS**

Prepared by Vertex, Inc. (Berwyn, Pennsylvania)  
November 8, 1991

## RESPONSE TO MULTISTATE TAX COMMISSION

### Questions 1-6, Page 1:

Under current enactments of state and local sales taxes (i.e., not including unused local authority), how many separate sales tax returns would a retailer with a retail outlet in every state and local taxing jurisdiction have to file each month or quarter? (Assume that all retail sales were of taxable items). To which specific jurisdictions in each state would returns have to be sent, i.e., please list the states in which local liability is remitted to the state as part of the state filing (regardless of the type of locality-specific schedule that has to be filed) and all local jurisdictions self-administering their sales taxes. Please supply the current tax rates in each of these jurisdictions.

### Response:

A retailer doing business in each taxing district in the United States would have to file approximately 550 sales tax returns per month (assuming all returns were monthly). A retailer collecting use tax in all jurisdictions in the United States would have to file approximately 428 use tax returns per month.

| Jurisdiction                   | Sales | Use |
|--------------------------------|-------|-----|
| States & state administered    | 49    | 49  |
| Alaska locally administered    | 93    | 5   |
| Alabama locally administered   | 54    | 34  |
| Arizona locally administered   | 12    | 8   |
| Colorado locally administered  | 41    | 31  |
| Louisiana locally administered | 300   | 300 |
| Minnesota locally administered | 1     | 1   |
| Total                          | 550   | 428 |

**Note:** Effective 7/1/92, due to a change in filing requirements, Louisiana locals will be collected by 64 parishes rather than the approximately 300 reporting jurisdictions currently required.



Detail information applicable to this question is shown on Attachment 1 with the exception of the tax rates. The tax rates applicable to all taxing jurisdictions are included in the Vertex National Sales Tax Rate Directory which was previously shipped to your office.

**Questions 2, Page 1:**

Assuming that nexus were acknowledged, in which of these local jurisdictions would no local use tax collection responsibility exist for an out-of-state direct marketer a) because no local use taxes are imposed; or b) because local use taxes do not apply to inbound interstate sales under current law (again, even were nexus to be acknowledged).

**Response:**

The information requested in this question is shown on Attachment Number 1.

**Question 3, Page 1:**

In which states must the base of all local sales and use taxes be identical to the state base by law? In which states (if any) does the base of all local sales/use taxes uniformly differ from the state base, and how does it differ in each such state? In which self-administering local jurisdictions does the jurisdiction have complete autonomy to define its sales/use tax base?

**Response:**

The information requested in this question is shown on Attachment Number 1.

**Question 4, Page 1**

What are the current practices with regard to vendor compensation for collection of both state and local sales and use taxes in each state in which the local taxes are state-administered and in each local jurisdiction that self-administers its sales and use taxes? (For example, are there jurisdictions in which com-

pensation is provided for collection of sales taxes but not use taxes?).

**Response:**

The information requested in this question is shown on Attachment Number 1.

**Question 5, Page 1**

What restrictions on levels and changes in local sales and use tax rates currently exist (e.g. limited rate options within an overall range, maximum rate, maximum number of rate changes in a given time period, referendum requirements) and where do they exist? Are there similar limitations on making changes in the base of the local tax, even where there is some degree of autonomy to define it?

**Response:**

The information requested in this question is shown on Attachment Number 1.

# RESPONSE TO MULTISTATE TAX COMMISSION

Attachment 1

Questions 1-6

## STATES AND STATE ADMINISTERED LOCAL JURISDICTIONS

| STATE             | NUMBER OF RETURNS FILED (1) | LOCAL USE TAX (V/N) | LOCAL TAX BASE (1) | VENDOR'S DISCOUNT SALES (13) | USE (3%)       | RATE RESTRICTIONS | LOCAL EXCEPTION RATE MAX | TIERED  |
|-------------------|-----------------------------|---------------------|--------------------|------------------------------|----------------|-------------------|--------------------------|---------|
| 1 ALABAMA         | 1                           | (1)                 | S                  | (13)                         | 3%             |                   |                          |         |
| 2 ALASKA          |                             |                     | NO STATE TAX       |                              |                |                   |                          |         |
| 3 ARIZONA         | 1                           | (1)                 | A                  | NONE                         | NONE           | YES (1)           |                          |         |
| 4 ARKANSAS        | 1                           | Y                   | S (2)              | 2%                           | NONE           | YES (2)           | YES (1)                  | YES (1) |
| 5 CALIFORNIA      | 1                           | Y                   | S                  | NONE                         | NONE           | YES (2)           |                          |         |
| 6 COLORADO        | 1                           | (2)                 | S (3)              | 3.33%                        | 3.33%          | 7% MAX            |                          |         |
| 7 CONNECTICUT     | 1                           |                     | NO LOCAL TAX       | NONE                         | NONE           |                   | NO LOCAL TAX             |         |
| 8 DELAWARE        |                             |                     | NO STATE TAX       |                              |                |                   | NO LOCAL TAX             |         |
| 9 DC              | 1                           |                     | NO LOCAL TAX       | 1% Max \$5,000               | NONE           |                   | NO LOCAL TAX             |         |
| 10 FLORIDA        | 1                           | N                   | S                  | (1)                          | (1)            | YES (4)           | YES (4)                  |         |
| 11 GEORGIA        | 1                           | Y                   | S                  | 3%                           | 3%             | YES (11)          |                          |         |
| 12 HAWAII         | 1                           |                     | NO LOCAL TAX       | NONE                         | NONE           |                   | NO LOCAL TAX             |         |
| 13 IDAHO          | 1                           |                     | NO LOCAL TAX       | NONE                         | NONE           |                   | NO LOCAL TAX             |         |
| 14 ILLINOIS       | 1                           | N                   | S                  | 1.75%                        | NONE           | YES               |                          |         |
| 15 INDIANA        | 1                           |                     | NO LOCAL TAX       | 1%                           | NONE           |                   | NO LOCAL TAX             |         |
| 16 IOWA           | 1                           | N                   | S                  | NONE                         | NONE           | YES (4)           |                          |         |
| 17 KANSAS         | 1                           | N                   | S (4)              | NONE                         | (14)           | YES (5)           |                          |         |
| 18 KENTUCKY       | 1                           |                     | NO LOCAL TAX       | 1.75% (2)                    | NONE           |                   | NO LOCAL TAX             |         |
| 19 LOUISIANA      | 1                           | Y                   | A                  | 1.1%                         | 1.1%           | YES (8)           |                          |         |
| 20 MAINE          | 1                           |                     | NO LOCAL TAX       | NONE                         | NONE           |                   | NO LOCAL TAX             |         |
| 21 MARYLAND       | 1                           |                     | NO LOCAL TAX       | 1.2%                         | 1.2%           |                   | NO LOCAL TAX             |         |
| 22 MASSACHUSETTS  | 1                           |                     | NO LOCAL TAX       | NONE                         | NONE           |                   | NO LOCAL TAX             |         |
| 23 MICHIGAN       | 1                           |                     | NO LOCAL TAX       | (4)                          | (4)            |                   | NO LOCAL TAX             |         |
| 24 MINNESOTA      | 3                           | Y                   | A                  | NONE                         | NONE           |                   |                          |         |
| 25 MISSISSIPPI    | 2                           | N                   | S                  | 2% Max \$50(5)               | 2% Max \$50(5) |                   |                          |         |
| 26 MISSOURI       | 1                           | N                   | S                  | 2%                           | NONE           | YES (7)           |                          |         |
| 27 MONTANA        |                             |                     | NO STATE TAX       |                              |                |                   | NO LOCAL TAX             |         |
| 28 NEBRASKA       | 1                           | Y                   | S                  | 1.5% (8)                     | 1.5% (8)       | YES (7)           |                          |         |
| 29 NEVADA         | 1                           | Y                   | S                  | 1.25%                        | 1.25%          | YES (8)           |                          |         |
| 30 NEW HAMPSHIRE  |                             |                     | NO STATE TAX       |                              |                |                   | NO LOCAL TAX             |         |
| 31 NEW JERSEY     | 1                           |                     | NO LOCAL TAX       | NONE                         | NONE           |                   | NO LOCAL TAX             |         |
| 32 NEW MEXICO     | 1                           | N                   | S                  | NONE                         | NONE           | YES (9)           |                          |         |
| 33 NEW YORK       | 1                           | Y                   | S                  | NONE                         | NONE           | YES (10)          |                          |         |
| 34 NORTH CAROLINA | 1                           | Y                   | S                  | NONE                         | NONE           | YES (11)          |                          |         |
| 35 NORTH DAKOTA   | 1                           | Y                   | A                  | 1.5% (12)                    | NONE           | YES (12)          | YES (5)                  |         |
| 36 OHIO           | 1                           | Y                   | S                  | 1.5%                         | 1.5%           | YES (13)          |                          |         |
| 37 OKLAHOMA       | 1                           | (1)                 | S                  | 2.25%                        | (7)            | YES (3)           |                          |         |
| 38 OREGON         |                             |                     | NO STATE TAX       |                              |                |                   | NO LOCAL TAX             |         |
| 39 PENNSYLVANIA   | 1                           | N                   | S                  | 1%                           | NONE           | YES (4)           |                          |         |
| 40 RHODE ISLAND   | 1                           |                     | NO LOCAL TAX       | NONE                         | NONE           |                   | NO LOCAL TAX             |         |
| 41 SOUTH CAROLINA | 1                           | Y                   | S                  | 3% (8)                       | 3% (8)         | YES (4)           |                          |         |
| 42 SOUTH DAKOTA   | 1                           | Y                   | S (5)              | 1.5% Max \$70                | NONE           | YES (14)          |                          |         |
| 43 TENNESSEE      | 1                           | Y                   | S                  | 2% (9)                       | 2% (9)         |                   | YES (2)                  |         |
| 44 TEXAS          | 1                           | Y                   | S                  | 3%                           | 3%             | YES (15)          |                          |         |
| 45 UTAH           | 1                           | Y                   | S                  | NONE                         | NONE           | YES (16)          | YES (3)                  |         |
| 46 VERMONT        | 1                           |                     | NO LOCAL TAX       | NONE                         | NONE           |                   | NO LOCAL TAX             |         |
| 47 VIRGINIA       | 1                           | Y                   | S                  | (10)                         | (10)           | YES (4)           |                          |         |
| 48 WASHINGTON     | 1                           | Y                   | S                  | NONE                         | NONE           | YES (17)          |                          |         |
| 49 WEST VIRGINIA  | 1                           |                     | NO LOCAL TAX       | NONE                         | NONE           |                   | NO LOCAL TAX             |         |
| 50 WISCONSIN      | 1                           | Y                   | S                  | (11)                         | (11)           | YES (18)          |                          |         |
| 51 WYOMING        | 1                           | Y                   | S                  | NONE                         | NONE           | YES (2)           |                          |         |
| Totals 40         |                             |                     |                    |                              |                |                   |                          |         |

VERTEX INC.

November 8, 1991

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## FOOTNOTES TO STATE SCHEDULE

### NUMBER OF RETURNS

- (1) A return may encompass more one more different schedules

### LOCAL USE TAXES

- (1) Local use taxes may or may not apply depending on the specific local statute. See the Vertex National Sales Tax Rate Director for details.
- (2) State administered jurisdictions do not impose use taxes. Locally administered jurisdictions may impose use taxes.

### LOCAL TAX BASE

- (1) S = Same as state      D = Uniformly Different From the State      A = Autonomous
- (2) The Texarkana tax base can differ from the state base.
- (3) Basically the same as the state except food and machinery tax bases can vary.
- (4) Basically the same as the state except certain parts for agricultural machinery are exempt from the local tax.

### VENDOR'S DISCOUNT

- (1) 2.5% of first \$1,200 and .83% of excess. Mail order dealers can negotiate rates not to exceed 10%.
- (2) 1% on amounts over \$1,000.
- (3) Reserved
- (4) Depends on when the tax is paid. Before the 7th of the month, .75% between 7th and 15th, .5%. Maximum of \$15,000.
- (5) Maximum of \$600 per year per location.
- (6) 1.5% for tax amounts less than \$1,000, .5% on excess.
- (7) Based on seller's home state's discount rate — max of 2.25%.
- (8) 3% for tax amounts less than \$100, 2% on excess to a maximum of \$10,000 per fiscal year.
- (9) 2% for tax amounts less than \$2,500, 1.15% on excess.



FOOTNOTES TO STATE SCHEDULE (CONT.)

- (10) 3.43% for tax amounts less than \$62,500, 2.57% for tax amounts between \$62,500 and \$208,000, 1.71% on excess
- (11) 2% for tax amounts less than \$10,000, 1% for tax amounts between \$10,000 and 20,000, .5% on excess per fiscal year.
- (12) Maximum of \$85. Cities have their own discount rates.
- (13) 5% for sales tax amounts less than \$100, 2% on excess.
- (14) Discount applicable if seller is located in Colorado, Missouri, Nebraska, or Oklahoma.

RATE RESTRICTIONS

- (1) County rates cannot exceed 10% of the state tax.
- (2) County rates cannot exceed 2%.
- (3) Reserved
- (4) The maximum local rate is 1%.
- (5) Maximum rates are based on the population of local jurisdictions.
- (6) City taxes cannot exceed 2.5% in most cities and 3.5% in a few cities. Parish taxes cannot exceed 2%.
- (7) Maximum city rates cannot exceed 1.5%.
- (8) Maximum county rates cannot exceed 2.75%.
- (9) New Mexico has a number of county and city sales (gross receipts) taxes that each have maximum rates.
- (10) Maximum city or county is 4.25%.
- (11) Maximum county rate is 2%.
- (12) Maximum city rate is 1%.
- (13) Maximum county rate is 1.5%. Maximum transit rate is 1.5%.
- (14) Maximum city rate is 2%.
- (15) The maximum combined rate cannot exceed 8.25%.
- (16) Maximum city or county rate is 1%. Maximum Resort Community Tax rate is 1%.
- (17) Maximum city or county rate is 1.1%. Maximum transit rate is .6%.
- (18) Maximum county rate is .5%.

FOOTNOTES TO STATE SCHEDULE (CONT.)

MAXIMUM RATES

- (1) The maximum tax amount in most cities is \$25 per each 1% of city tax rate.
- (2) Maximum tax amounts vary by city and county. See the Vertex National Sales Tax Rate Directory for details.
- (3) The maximum taxable amount for Resort Communities Tax purposes is \$2,500.
- (4) The maximum taxable amount for county tax purposes is \$5,000.
- (5) The maximum tax amount in most cities is \$25.

TIERED RATES

- (1) A number of Arizona cities have tiered rates. See the Vertex National Sales Tax Rate Director for details.

# LOCALLY ADMINISTERED JURISDICTIONS - ALABAMA

|                | NUMBER<br>OF RETURNS<br>FILED | USE TAX<br>APPLICABLE<br>(Y/N) | LOCAL<br>TAX<br>BASE | VENDOR'S DISCOUNT |             | RATE<br>RESTRICTIONS | EXCEPTION RATES |        |
|----------------|-------------------------------|--------------------------------|----------------------|-------------------|-------------|----------------------|-----------------|--------|
|                |                               |                                |                      | SALFS             | USE         |                      | MAX             | TIERED |
| Jefferson      | 1                             | Y                              | S                    | 5% / 2% (1)       | 3%          | (2)                  | NONE            | NONE   |
| Madison        | 1                             | Y                              | S                    | 5% / 2% (1)       | 5% / 2% (1) | (2)                  | NONE            | NONE   |
| Mobile         | 1                             | Y                              | S                    | NONE              | NONE        | (2)                  | NONE            | NONE   |
| St. Clair      | 1                             |                                | S                    | 2%                |             | (2)                  | NONE            | NONE   |
| Tuscaloosa     | 1                             | Y                              | S                    | 5% / 2% (1)       | 5% / 2% (1) | (2)                  | NONE            | NONE   |
| Walker         | 1                             |                                | S                    | 2%                |             | (2)                  | NONE            | NONE   |
|                |                               |                                |                      | CITIES            |             |                      |                 |        |
| Adamsville     | 1                             | Y                              | S                    | 5% / 2% (1)       | 5% / 2% (1) | (2)                  | NONE            | NONE   |
| Annisston      | 1                             | Y                              | S                    | (2)               | (2)         | (2)                  | NONE            | NONE   |
| Banks          | 1                             |                                | S                    | (2)               |             | (2)                  | NONE            | NONE   |
| Birmingham     | 1                             | Y                              | S                    | NONE              | NONE        | (2)                  | NONE            | NONE   |
| Brilliant      | 1                             | Y                              | S                    | (2)               | (2)         | (2)                  | NONE            | NONE   |
| Chickasaw      | 1                             | Y                              | S                    | NONE              | NONE        | (2)                  | NONE            | NONE   |
| Childersburg   | 1                             |                                | S                    | (2)               |             | (2)                  | NONE            | NONE   |
| Cordova        | 1                             |                                | S                    | 3%                |             | (2)                  | NONE            | NONE   |
| Creola         | 1                             | Y                              | S                    | 3%                | 3%          | (2)                  | NONE            | NONE   |
| Daphne         | 1                             | Y                              | S                    | (2)               | (2)         | (2)                  | NONE            | NONE   |
| Decatur        | 1                             |                                | S                    | 3%                |             | (2)                  | NONE            | NONE   |
| Dezot          | 1                             | Y                              | S                    | 5% / 2% (1)       | 5% / 2% (1) | (2)                  | NONE            | NONE   |
| Ethelsville    | 1                             |                                | S                    | (2)               |             | (2)                  | NONE            | NONE   |
| Fairfield      | 1                             | Y                              | S                    | (2)               | (2)         | (2)                  | NONE            | NONE   |
| Flint City     | 1                             |                                | S                    | (2)               |             | (2)                  | NONE            | NONE   |
| Flyle          | 1                             |                                | S                    | 5% / 2% (1)       |             | (2)                  | NONE            | NONE   |
| Glen Allen     | 1                             |                                | S                    | (2)               |             | (2)                  | NONE            | NONE   |
| Grayville      | 1                             | Y                              | S                    | (2)               | (2)         | (2)                  | NONE            | NONE   |
| Gulf Shores    | 1                             | Y                              | S                    | (2)               | (2)         | (2)                  | NONE            | NONE   |
| Hartselle      | 1                             |                                | S                    | (2)               |             | (2)                  | NONE            | NONE   |
| Hemmer         | 1                             |                                | S                    | (2)               |             | (2)                  | NONE            | NONE   |
| Homewood       | 1                             | Y                              | S                    | 15%               | 15%         | (2)                  | NONE            | NONE   |
| Hoover         | 1                             | Y                              | S                    | 2%                | 2%          | (2)                  | NONE            | NONE   |
| Hueytown       | 1                             |                                | S                    | (2)               |             | (2)                  | NONE            | NONE   |
| Huntsville     | 1                             | Y                              | S                    | 5% / 2% (1)       | 5% / 2% (1) | (2)                  | NONE            | NONE   |
| Irondale       | 1                             | Y                              | S                    | 15%               | 15%         | (2)                  | NONE            | NONE   |
| Jasper         | 1                             |                                | S                    | 5% / 2% (1)       |             | (2)                  | NONE            | NONE   |
| Madison        | 1                             | Y                              | S                    | (2)               | (2)         | (2)                  | NONE            | NONE   |
| Mobile         | 1                             | Y                              | S                    | 3%                | NONE        | (2)                  | NONE            | NONE   |
| Montgomery     | 1                             | Y                              | S                    | (2)               | (2)         | (2)                  | NONE            | NONE   |
| Mountain Brook | 1                             | Y                              | S                    | 15%               | 15%         | (2)                  | NONE            | NONE   |
| North Port     | 1                             | Y                              | S                    | 5% / 2% (1)       | 5% / 2% (1) | (2)                  | NONE            | NONE   |
| Orrville       | 1                             |                                | S                    | 5% / 2% (1)       |             | (2)                  | NONE            | NONE   |
| Pelham         | 1                             | Y                              | S                    | (2)               | (2)         | (2)                  | NONE            | NONE   |
| Pell City      | 1                             | Y                              | S                    | (2)               | (2)         | (2)                  | NONE            | NONE   |
| Piedmont       | 1                             | Y                              | S                    | (2)               | (2)         | (2)                  | NONE            | NONE   |
| Rainville      | 1                             |                                | S                    | 5% / 2% (1)       |             | (2)                  | NONE            | NONE   |
| Roanoke        | 1                             | Y                              | S                    | (2)               | (2)         | (2)                  | NONE            | NONE   |
| Robertsdale    | 1                             | Y                              | S                    | (2)               | (2)         | (2)                  | NONE            | NONE   |
| Rockford       | 1                             | Y                              | S                    | 3%                | 3%          | (2)                  | NONE            | NONE   |
| Sareland       | 1                             |                                | S                    | NONE              |             | (2)                  | NONE            | NONE   |
| Satsuma        | 1                             |                                | S                    | 3%                |             | (2)                  | NONE            | NONE   |
| Southside      | 1                             | Y                              | S                    | (2)               | (2)         | (2)                  | NONE            | NONE   |
| Trinity        | 1                             |                                | S                    | 3%                |             | (2)                  | NONE            | NONE   |
| Tuscaloosa     | 1                             | Y                              | S                    | 5% / 2% (1)       | 5% / 2% (1) | (2)                  | NONE            | NONE   |
| Vestavia Hills | 1                             | Y                              | S                    | 5% / 2% (1)       | 5% / 2% (1) | (2)                  | NONE            | NONE   |
| Webb           | 1                             |                                | S                    | 5% / 2% (1)       |             | (2)                  | NONE            | NONE   |
| Wilmer         | 1                             | Y                              | S                    | 3%                | 3%          | (2)                  | NONE            | NONE   |

(1) 5% for the first \$100 in tax, 2% on excess.  
(2) Unknown



# LOCALLY ADMINISTERED JURISDICTIONS - ALASKA

|                   | NUMBER<br>OF RETURNS<br>FILED | USE TAX<br>APPLICABLE<br>(Y/N) | LOCAL<br>TAX<br>BASE | VENDOR'S |          | HUNT<br>USE | RATE<br>RESTRICTIONS | EXCEPTION RATES |       |
|-------------------|-------------------------------|--------------------------------|----------------------|----------|----------|-------------|----------------------|-----------------|-------|
|                   |                               |                                |                      | SALES    | COUNTIES |             |                      | MAX             | TERED |
| Haines            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Juneau            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Kenai Peninsula   | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Ketchikan Gateway | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
|                   | 1                             |                                |                      |          | CITIES   |             |                      |                 |       |
| Akiachak          | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Alakanuk          | 1                             | Y                              | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Ambler            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Angoon            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Almeutluk         | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Barrow            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Bethel            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Brevig Mission    | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Buckland          | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Chefornak         | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Chevak            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Clarke Point      | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Cordova           | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Craig             | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Deering           | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Dillingham        | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Diomedes          | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Douglas           | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Eek               | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Elim              | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Emmonak           | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Fort Yukon        | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Galena            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Gambell           | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Haines            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Homer             | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Hoonah            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Hooper Bay        | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Juneau            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Keke              | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Kenai             | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Ketchikan         | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Kiana             | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| King Cove         | 1                             | Y                              | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Kivalina          | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Klawok            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Kodiak            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Kodiak Station    | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Kotlik            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Kotzebue          | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Koyuk             | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Manokotak         | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Mekoryuk          | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Mountain Village  | 1                             | Y                              | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Napaklak          | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Nenana            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Nettok            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Nightmute         | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Nome              | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Noorvik           | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| North Pole        | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Nugaut            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Nunapitchuk       | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Ouzinkie          | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Palmer            | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Pelican           | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Petersburg        | 1                             | Y                              | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Pilot Station     | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Port Alexander    | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Quinhagak         | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |
| Saint Michael     | 1                             |                                | A                    |          | (1)      |             | (1)                  | (1)             | (1)   |



| ALASKA (Con't)    | NUMBER<br>OF RETURNS<br>FILED | USE TAX<br>APPLICABLE<br>(Y/N) | LOCAL<br>TAX<br>BASE | VENDOR'S DISCOUNT |     | RATE<br>RESTRICTIONS | EXCEPTION RATES |        |
|-------------------|-------------------------------|--------------------------------|----------------------|-------------------|-----|----------------------|-----------------|--------|
|                   |                               |                                |                      | SALES             | USE |                      | MAX             | TIERED |
| Saint Paul Island | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Sand Point        | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Sevoonga          | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Saxman            | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Scammon Bay       | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Selawik           | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Seldovia          | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Seward            | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Shaktolik         | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Shishmaref        | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Shungnak          | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Sitka             | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Skagway           | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Soldotna          | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Stebbins          | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Tanana            | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Teller            | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Tenakee Springs   | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Togiak            | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Toksook Bay       | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Tununa            | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Unalakleet        | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Unalaska          | 1                             | Y                              | A                    | (1)               | (1) | (1)                  | (1)             | (1)    |
| Wales             | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Whitler           | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Wrangell          | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |
| Yakutat           | 1                             |                                | A                    | (1)               |     | (1)                  | (1)             | (1)    |

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(1) Unknown

# LOCALLY ADMINISTERED JURISDICTIONS - ARIZONA

|             | NUMBER<br>OF RETURNS<br>FILED | USE TAX<br>APPLICABLE<br>(Y/N) | LOCAL<br>TAX<br>BASE | VENDOR'S DISCOUNT<br>SALES | USE  | RATE<br>RESTRICTIONS | EXCEPTION RATES<br>MAX | TIERED |
|-------------|-------------------------------|--------------------------------|----------------------|----------------------------|------|----------------------|------------------------|--------|
| Chandler    | 1                             | Y                              | A                    | NONE                       | NONE | (1)                  | NONE                   | NONE   |
| Flagstaff   | 1                             |                                | A                    | NONE                       |      | (1)                  | NONE                   | NONE   |
| Glendale    | 1                             | Y                              | A                    | NONE                       | NONE | (1)                  | NONE                   | NONE   |
| Mesa        | 1                             | Y                              | A                    | NONE                       | NONE | (1)                  | NONE                   | NONE   |
| Nogales     | 1                             |                                | A                    | NONE                       |      | (1)                  | NONE                   | NONE   |
| Petalagonia | 1                             |                                | A                    | NONE                       |      | (1)                  | NONE                   | NONE   |
| Peoria      | 1                             | Y                              | A                    | NONE                       | NONE | (1)                  | NONE                   | NONE   |
| Phoenix     | 1                             | Y                              | A                    | NONE                       | NONE | (1)                  | NONE                   | NONE   |
| Prescott    | 1                             | Y                              | A                    | NONE                       | NONE | (1)                  | NONE                   | NONE   |
| Scottsdale  | 1                             | Y                              | A                    | NONE                       | NONE | (1)                  | NONE                   | NONE   |
| Tempe       | 1                             | Y                              | A                    | NONE                       | NONE | (1)                  | NONE                   | NONE   |
| Tucson      | 1                             |                                | A                    | NONE                       |      | (1)                  | NONE                   | NONE   |
|             | 12                            |                                |                      |                            |      |                      |                        |        |

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# LOCALLY ADMINISTERED JURISDICTIONS -- COLORADO

|                      | NUMBER<br>OF RETURNS<br>FILED | USE TAX<br>APPLICABLE<br>(Y/N) | LOCAL<br>TAX<br>BASE | VENDOR'S DISCOUNT |      | RATE<br>RESTRICTIONS | EXCEPTION RATES |        |
|----------------------|-------------------------------|--------------------------------|----------------------|-------------------|------|----------------------|-----------------|--------|
|                      |                               |                                |                      | SALES             | USE  |                      | MAX             | TIERED |
| Alamosa              | 1                             | Y                              | A                    | 8%                | NONE | (1)                  | NONE            | NONE   |
| Anasazi              | 1                             | Y                              | A                    | 3% MAX \$100      | NONE | (1)                  | NONE            | NONE   |
| Aurora               | 1                             | Y                              | A                    | .5%               | NONE | (1)                  | NONE            | NONE   |
| Avon                 | 1                             | Y                              | A                    | NONE              | NONE | (1)                  | NONE            | NONE   |
| Boulder              | 1                             | Y                              | A                    | 1.5%              | NONE | (1)                  | NONE            | NONE   |
| Breckenridge         | 1                             |                                | A                    | 3.33%             |      | (1)                  | NONE            | NONE   |
| Canon City           | 1                             |                                | A                    | 3.33%             |      | (1)                  | NONE            | NONE   |
| Central City         | 1                             |                                | A                    | 3.33%             |      | (1)                  | NONE            | NONE   |
| Cherry Hills Village | 1                             |                                | A                    | NONE              |      | (1)                  | NONE            | NONE   |
| Colorado Springs     | 1                             | Y                              | A                    | 3%                | NONE | (1)                  | NONE            | NONE   |
| Commerce City        | 1                             | Y                              | A                    | 2%                | NONE | (1)                  | NONE            | NONE   |
| Cortez               | 1                             | Y                              | A                    | 3.33%             |      | (1)                  | NONE            | NONE   |
| Delta                | 1                             | Y                              | A                    | NONE              |      | (1)                  | NONE            | NONE   |
| Denver               | 1                             | Y                              | A                    | 1%                | NONE | (1)                  | NONE            | NONE   |
| Durango              | 1                             | Y                              | A                    | 3.33%             |      | (1)                  | NONE            | NONE   |
| Edgewater            | 1                             | Y                              | A                    | 3%                |      | (1)                  | NONE            | NONE   |
| Englewood            | 1                             | Y                              | A                    | 1.6%              |      | (1)                  | NONE            | NONE   |
| Fort Collins         | 1                             | Y                              | A                    | 1%                |      | (1)                  | NONE            | NONE   |
| Glendale             | 1                             |                                | A                    | 2.5%              |      | (1)                  | NONE            | NONE   |
| Glenwood Springs     | 1                             | Y                              | A                    | 3.33%             |      | (1)                  | NONE            | NONE   |
| Golden               | 1                             | Y                              | A                    | 2.5%              |      | (1)                  | NONE            | NONE   |
| Grand Junction       | 1                             | Y                              | A                    | 3.33%             |      | (1)                  | NONE            | NONE   |
| Greeley              | 1                             | Y                              | A                    | NONE              |      | (1)                  | NONE            | NONE   |
| Greenwood Village    | 1                             |                                | A                    | NONE              |      | (1)                  | NONE            | NONE   |
| La Junta             | 1                             | Y                              | A                    | 3%                |      | (1)                  | NONE            | NONE   |
| Lafayette            | 1                             | Y                              | A                    | 2.5%              |      | (1)                  | NONE            | NONE   |
| Lakewood             | 1                             | Y                              | A                    | 1%                |      | (1)                  | NONE            | NONE   |
| Lamar                | 1                             | Y                              | A                    | 3.33%             |      | (1)                  | NONE            | NONE   |
| Larkspur             | 1                             |                                | A                    | NONE              |      | (1)                  | NONE            | NONE   |
| Littleton            | 1                             | Y                              | A                    | 2.5%              |      | (1)                  | NONE            | NONE   |
| Longmont             | 1                             | Y                              | A                    | 3%                |      | (1)                  | NONE            | NONE   |
| Montrose             | 1                             | Y                              | A                    | 1.33%             |      | (1)                  | NONE            | NONE   |
| Mount Crested Butte  | 1                             |                                | A                    | 3.33%             |      | (1)                  | NONE            | NONE   |
| Normal               | 1                             | Y                              | A                    | 1%                |      | (1)                  | NONE            | NONE   |
| Pueblo               | 1                             | Y                              | A                    | 3.33%             |      | (1)                  | NONE            | NONE   |
| Rifle                | 1                             | Y                              | A                    | NONE              |      | (1)                  | NONE            | NONE   |
| Steamboat Springs    | 1                             |                                | A                    | 1%                |      | (1)                  | NONE            | NONE   |
| Thornton             | 1                             | Y                              | A                    | 1.5%              |      | (1)                  | NONE            | NONE   |
| Vail                 | 1                             |                                | A                    | NONE              |      | (1)                  | NONE            | NONE   |
| Westminster          | 1                             | Y                              | A                    | 2.5%              |      | (1)                  | NONE            | NONE   |
| Wheat Ridge          | 1                             | Y                              | A                    | 2%                |      | (1)                  | NONE            | NONE   |

41 31

(1) Unknown



# LOCALLY ADMINISTERED JURISDICTIONS - LOUISIANA

| NUMBER<br>OF RETURNS<br>FILED | USE TAX<br>APPLICABLE<br>(Y/N) | LOCAL<br>TAX<br>BASE | PARISHES (COUNTIES) | VENDOR'S DISCOUNT |     | RATE<br>RESTRICTIONS | EXCEPTION RATES |        |
|-------------------------------|--------------------------------|----------------------|---------------------|-------------------|-----|----------------------|-----------------|--------|
|                               |                                |                      |                     | SALES             | USE |                      | MAX             | TIERED |
| Acadia                        | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| Allen                         | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Ascension                     | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Assumption                    | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| Aveyelles                     | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| Beauregard                    | (1)                            | Y                    | A                   | 15%               | (2) | NONE                 | NONE            | NONE   |
| Bienville                     | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| Bossier                       | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Caddo                         | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Calcasieu                     | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Caldwell                      | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| Catahoula                     | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Clairborne                    | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| Concordia                     | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Deoto                         | (1)                            | Y                    | A                   | 15%               | (2) | NONE                 | NONE            | NONE   |
| East Baton Rouge              | (1)                            | Y                    | A                   | 1%                | (2) | NONE                 | NONE            | NONE   |
| East Carroll                  | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| East Feliciana                | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Evangeline                    | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| Franklin                      | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| Grant                         | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Iberia                        | (1)                            | Y                    | A                   | 1%                | (2) | NONE                 | NONE            | NONE   |
| Iberville                     | (1)                            | Y                    | A                   | 15%               | (2) | NONE                 | NONE            | NONE   |
| Jackson                       | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| Jefferson Davis               | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| Jefferson                     | (1)                            | Y                    | A                   | 1%                | (2) | NONE                 | NONE            | NONE   |
| La Salle                      | (1)                            | Y                    | A                   | 15%               | (2) | NONE                 | NONE            | NONE   |
| Lafayette                     | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| Lefourche                     | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Lincoln                       | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| Livingston                    | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Madison                       | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| Morehouse                     | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Natchitoches                  | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Orleans                       | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Ouachita                      | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| Plaquemines                   | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Pointe Coupee                 | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Rapides                       | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Red River                     | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Richland                      | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Sabine                        | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| St Bernard                    | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| St Charles                    | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| St Helena                     | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| St James                      | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| St John the Baptist           | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| St Landry                     | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| St Martin                     | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| St Mary                       | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| St Tammany                    | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Tangipahoa                    | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Tensas                        | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Terrebonne                    | (1)                            | Y                    | A                   | 2%                | (2) | NONE                 | NONE            | NONE   |
| Union                         | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Vermilion                     | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Vernon                        | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Washington                    | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Webster                       | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| West Baton Rouge              | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| West Carroll                  | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| West Feliciana                | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |
| Winn                          | (1)                            | Y                    | A                   | (2)               | (2) | NONE                 | NONE            | NONE   |

(1) There are approximately 300 separate local returns that must be filed in Louisiana. Effective 7/1/92, taxes will be collected at the parish level, thereby reducing the number of filing jurisdictions to 64.

(2) Unknown

| LOUISIANA (Cont) | NUMBER<br>OF RETURNS<br>FILED | USE TAX<br>APPLICABLE<br>(Y/N) | LOCAL<br>TAX<br>BASE<br>CITIES | VENDOR'S DISCOUNT |     | RATE<br>RESTRICTIONS | EXCEPTION RECEPTION F |      |
|------------------|-------------------------------|--------------------------------|--------------------------------|-------------------|-----|----------------------|-----------------------|------|
|                  |                               |                                |                                | SALES             | USE |                      | MAX                   | MAX  |
| Abbeville        | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Abita Springs    | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Albany           | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Alexandria       | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Amite            | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Angle            | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Arcadia          | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Arnaudville      | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Baker            | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Baldwin          | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Ball             | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Basile           | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Bastrop          | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Baton Rouge      | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Benton           | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Berlin           | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Berwick          | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Bogalusa         | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Bonita           | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Bossier City     | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Breaux Bridge    | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Broussard        | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Bunkle           | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Camp             | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Cankton          | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Carencro         | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Castor           | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Centerville      | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Chataignier      | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Church Point     | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Clarence         | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Coffey           | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Collinston       | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Columbia         | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Cotton Valley    | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Cottonport       | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Coushatta        | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Covington        | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Crowley          | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Cullen           | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| De Quincy        | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| De Ridder        | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Delcambre        | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Delhi            | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Delta            | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Denham Springs   | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Dixie Inn        | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Donaldsonville   | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Dubach           | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Duson            | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| East Hodge       | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Elizabeth        | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Elton            | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Erath            | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Eros             | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Estherwood       | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Eunice           | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Farmerville      | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Feriday          | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Florien          | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Folsom           | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Fordeche         | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Franklin         | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Franklinton      | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Georgetown       | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Gibland          | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |
| Gibert           | (1)                           | Y                              | A                              | (2)               | (2) | NONE                 | NONE                  | NONE |

(1) There are approximately 300 separate local returns that must be filed in Louisiana. Effective 7/1/92, taxes will be collected at the parish level, thereby reducing the number of filing jurisdictions to 64.

(2) Unknown

VERTEX INC.

November 8, 1991



| LOUISIANA (Con't)    | NUMBER<br>OF RETURNS<br>FILED | USE TAX<br>APPLICABLE<br>(Y/N) | LOCAL<br>TAX<br>BASE | VENDOR'S DISCOUNT |     | RATE<br>RESTRICTIONS | EXCEPTION RECEPTION |      |
|----------------------|-------------------------------|--------------------------------|----------------------|-------------------|-----|----------------------|---------------------|------|
|                      |                               |                                |                      | SALES             | USE |                      | MAX                 | MAX  |
| Glenmora             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Golden Meadow        | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Gonzales             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Goosport             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Grambling            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Gramercy             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Grand Coteau         | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Greeneburg           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Greenwood            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Gueydan              | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Hall Summit          | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Hammond              | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Houghton             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Haynesville          | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Henderson            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Hodge                | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Homer                | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Hornbeck             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Independence         | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Iola                 | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Iowa                 | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Jeanerette           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Jena                 | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Jennings             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Jonesboro            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Junction City        | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Kaplan               | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Kentwood             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Kinder               | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Krotz Springs        | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Lafayette            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Lake Arthur          | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Lake Providence      | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Lecompte             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Leesville            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Livingston           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Livonia              | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Lockport             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Logansport           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Loreauville          | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Lutcher              | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Madisonville         | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Mamou                | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Mandeville           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Mangham              | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Mansfield            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Mangura              | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Many                 | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Marion               | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Marksville           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Meurice              | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Mehilla              | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Mer Rouge            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Mertautau            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Merryville           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Minden               | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Monroe               | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Mooringport          | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Moreauville          | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Morgan City          | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Morganza             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Morass               | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Napoleonville        | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Natchez              | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| Natchitoches         | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| New Iberia           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| New Llano            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |
| New Orleans Internal | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                | NONE |

(1) There are approximately 300 separate local returns that must be filed in Louisiana. Effective 7/1/82, taxes will be collected at the parish level, thereby reducing the number of filing jurisdictions to 64.

(2) Unknown

VERTEX INC.

November 8, 1991



| LOUISIANA (Con't)  | NUMBER<br>OF RETURNS<br>FILED | USE TAX<br>APPLICABLE<br>(Y/N) | LOCAL<br>TAX<br>BASE | VENDOR'S DISCOUNT |     | RATE<br>RESTRICTIONS | EXCEPTION RECEPTION F |      |
|--------------------|-------------------------------|--------------------------------|----------------------|-------------------|-----|----------------------|-----------------------|------|
|                    |                               |                                |                      | SALES             | USE |                      | MAX                   | MAX  |
| New Orleans        | (1)                           | Y                              | A                    | 1%                | 1%  | NONE                 | NONE                  | NONE |
| New Roads          | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| North Hedge        | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Oak Grove          | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Oakdale            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Oberlin            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Oil City           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Opelousas          | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Parke              | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Patterson          | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Pearl River        | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Pine Prairie       | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Pineville          | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Plain Dealing      | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Plaucheville       | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Pleasant Hill      | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Pollock            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Ponchartraine      | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Port Barre         | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Rayne              | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Rayville           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Richmond           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Richwood           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Ringgold           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Robeline           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Rodessa            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Roseland           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Rosepine           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Ruston             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Saint Francisville | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Saint Martinville  | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Sarepta            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Seott              | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Shreveport         | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Sibley             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Simmesport         | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Sidell             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Sorrento           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| South Mansfield    | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Springfield        | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Springhill         | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Starrington        | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Stonewall          | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Sulphur            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Sun                | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Sunset             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Tahouah            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Tangipahoa         | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Thibodaux          | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Tickett            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Vernado            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Vidalia            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Ville Platte       | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Vinton             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Vivian             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Walker             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Washington         | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Welch              | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| West Monroe        | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Weetake            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Winnfield          | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Winnboro           | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Wiener             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Youngsville        | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Zachary            | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |
| Zwolle             | (1)                           | Y                              | A                    | (2)               | (2) | NONE                 | NONE                  | NONE |

(1) There are approximately 300 separate local returns that must be filed in Louisiana. Effective 7/1/92, taxes will be collected at the parish level, thereby reducing the number of filing jurisdictions to 84.

(2) Unknown

VERTEX INC.

November 8, 1991

BEST AVAILABLE COPY

# LOCALLY ADMINISTERED JURISDICTIONS - MINNESOTA

|        | NUMBER<br>OF RETURNS<br>FILED | USE TAX<br>APPLICABLE<br>(Y/N) | LOCAL<br>TAX<br>BASE | VENDOR'S DISCOUNT |      | RATE<br>RESTRICTIONS | EXCEPTION RATES |       |
|--------|-------------------------------|--------------------------------|----------------------|-------------------|------|----------------------|-----------------|-------|
|        |                               |                                |                      | SALES             | USE  |                      | MAX             | TIRED |
| Duluth | 1                             | Y                              | S                    | NONE              | NONE | NONE                 | NONE            | NONE  |

#### **APPENDIX 4**

### **LACK OF SOFTWARE TO PERMIT DETERMINATION OF TAX EXEMPT STATUS PRODUCTS AND TAX EXEMPT STATUS OF ORGANIZATION**

Prepared by Vertex, Inc. (Berwyn, Pennsylvania)  
November 8, 1991



**Question 11, Page 3.**

Is the claim of 97 percent accuracy for zip code plus city name in this same article based on a 5 or 9-digit zip code? If the former, can you offer an estimate of the accuracy of using the 9 digit code? I ask, of course, because there are relatively inexpensive CD ROM databases that will assign 9 digit zip codes and carrier route numbers to street addresses. (In question 7 I already asked if the SalesTax Compliance System includes such a feature).

**Response:**

The claim of 97 percent accuracy is based on the 5 digit zip code. Vertex is working with software companies that provide list processing services and which have databases of street address records. We are mutually working toward adding the Vertex GeoCode to the List Processing Company's data base records so that each street address will effectively have a GeoCode assigned thereto.

**Question 12, Page 3.**

Does Vertex or anyone else of whom you are aware have available or under development software that could designate consumer items (e.g., clothing, food, publications) as taxable or tax exempt in various states on the basis of bar coding assigned by manufacturers?

**Response:**

We are not aware of any such software. Vertex is, however, in the final development of an enhancement to the SalesTax software that will provide the taxability of the above items by state.

To use the new software, the user would pass the product code for clothing (as an example) and the calculation module will tax according to the indicators on the file.

**Question 13, Page 3.**

Does Vertex, any of its clients, or anyone else of whom you are aware have available or under development software that would link geographic coding and rate coding software to printing and binding software, to allow for ink-jet printing and selective binding of catalog order forms containing tax rate information matched to the address of the catalog recipient?

**Response:**

We are not aware of anyone that provides the ink-jet printing service described above. Vertex has had discussions with printers that provide current ink-jet printing services. These discussions have indicated that there are not technological barriers to doing what you describe. We expect to be able to provide this service should Bellas Hess be overturned.

**Question 14, Page 3.**

Could the calculation module of the SalesTax Compliance System software easily be modified to link to preexisting customer software providing current inventory data on an on-line basis? Have any Vertex clients developed such a linkage, e.g. to allow personnel taking orders by phone to provide the purchaser with sales or use tax expenses? If yes, can you offer any information concerning the approximate cost, staff time, etc. needed to adapt the software in this way?

**Response:**

The calculation module of the SalesTax system can easily be integrated into a process to allow customers taking orders by phone to quote a tax amount. Many of our existing customers currently provide this facility. The programming effort to accomplish this should take no longer than one day.

**Question 15, Page 3.**

Does Vertex for anyone else of whom you are aware have under development a software system that would provisionally identify

non-profit and governmental (and other?) organizations as tax-exempt in their purchases based on a unique identifier like their FEIN and flag that need of a seller to obtain an exemption certificate?

**Response:**

Vertex does not currently have under development, nor are we aware, of any organization that provides the software that you describe.